
Restraining Orders In Wisconsin

**This document, created by the End Domestic Abuse WI-Wisconsin Coalition Against Domestic Violence
(End Abuse) Legal Department, does not constitute legal advice.**

[§813.128\(2g\)\(a\)](#) states that a foreign protection order shall be accorded full faith and credit by the tribunals in this state and shall be enforced as if the order were an order of a tribunal of this state. A foreign protection order is a protection order issued by a tribunal [a court, agency, or other entity of a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, an American Indian tribe or band, or any territory or insular possession subject to the jurisdiction of the United States, authorized by law to issue or modify a protection order] other than a tribunal of this state. See [§813.128\(1g\)\(c\)](#), [§813.128\(1g\)\(g\)](#). A protection order is any temporary or permanent injunction or order issued by a tribunal to prevent an individual from engaging in abuse, bodily harm, communication, contact, harassment, physical proximity, threatening acts or violence to another person, other than support or custody orders. This term includes an injunction or order issued under the anti-stalking laws of the issuing state. [§813.128\(1g\)\(e\)](#). A foreign protection order or modification of the foreign protection order that meets the requirements under this section has the same effect as an order issued under [§§813.12](#), [813.122](#), [813.123](#) or [813.125](#), except that the foreign protection order or modification shall be enforced according to its own terms. [§813.128\(2g\)\(b\)](#). See <http://www.bwjp.org/our-work/projects/protection-orders.html> for more information.

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	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>1. What is the process to obtain a restraining order?</p>	<p align="center"><i>(THIS INFORMATION IS THE SAME FOR FILING A RESTRAINING ORDER)</i></p> <p>Step One: Complete Petition for Temporary Restraining Order (TRO) and File</p> <p>Filing a TRO is an ex parte proceeding. This means only one party is filing the petition. Thus, the respondent does not need notice of the filing of the TRO petition.</p> <p>Once complete, take the TRO to the courthouse to file. Bring identification as it is required to file the petition.</p> <p>After you give the petition to the clerk, you will be asked to wait while the clerk finds a judicial officer to review the petition/make a decision. The judge or circuit court commissioner will review the TRO petition. That person may ask you questions. However, you might not see the person at all.</p> <p>The court will grant/deny the TRO. If the judge or circuit court commissioner does not meet with you, the court will have the clerk return the signed or denied TRO to you.</p> <p>If the TRO is granted, the clerk must provide the sheriff with a copy of the TRO and injunction for service. The sheriff shall assist the petitioner with the service. §§813.115, 813.12(6)(a), 813.122(9)(a), 813.123(8)(a), 813.125(5g).</p> <p>If the TRO is denied and petitioner requested and there will be an injunction hearing, the petitioner must provide respondent notice of the injunction hearing. This means there is no TRO prior to the hearing.</p> <p>The TRO process is completed when:</p> <ol style="list-style-type: none"> 1. Complete the petition. 2. File the petition with the court. 3. Wait while the court reviews the petition and grants or denies; if granted, court sets a date/time for the injunction hearing. 4. Make sure respondent has notice of the injunction hearing if a hearing date is scheduled. 		<p><i>ALL TYPES OF RESTRAINING ORDERS.) IS USUALLY A 2 STEP PROCESS. See Question #13.</i></p> <p align="center">Step Two: Attend Injunction Hearing</p> <p>The injunction hearing must happen within 14 days of issuance of the TRO, unless there is a one-time 14 day extension. If the extension is granted, prior to the new date of the injunction hearing, be sure that proof of service has been provided to the court.</p> <p><i>There is no injunction hearing unless the petitioner provides notice of the hearing to the respondent.</i> If the respondent cannot be located, the petitioner can attend the injunction hearing to ask for an extension of the TRO to allow service by publication for either a domestic abuse or the harassment restraining order. A service by publication is not possible for individuals at risk or child abuse orders.</p> <p>Injunction hearings vary. Basic process:</p> <ol style="list-style-type: none"> 1. Court asks who is present. 2. Petitioner testifies. 3. Respondent can conduct cross examination of the petitioner. (Ask questions of petitioner) 4. Witnesses for petitioner testify; respondent can cross-examine. 5. Petitioner can cross-examine respondent. 6. Witnesses for respondent testify; petitioner can cross-examine. 7. Testimony is sometimes limited to only what was stated in the petition. 8. Cross examination is to be limited to ONLY what was said by the party. 9. Common objections to questions on cross examination are: “Not relevant” or “Hearsay.” Allow the court to rule on an objection prior to testifying. <p>The Injunction hearing is completed when:</p> <ol style="list-style-type: none"> 1. Hearing is scheduled and service occurred. 2. The court conducts a hearing by asking questions or has parties/witnesses testify. 3. Parties bring/give “proof” about incidents. Parties may need to know how to present evidence. 4. If a GAL has been appointed, court hears GAL recommendation. 5. Court makes decision to deny or grant order. <p align="center">See §813.12, §813.122, §813.123, or §813.125.</p>	

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
2. Who May Petition?	<p>1. Adult Family Member*</p> <p>2. Adult Household Member*</p> <p>3. Adult Former Spouse</p> <p>4. Adult with whom have child in common</p> <p>5. Adult with whom have or have had a dating relationship*</p> <p>6. Adult under a caregiver's* supervision</p> <p>7. Adult guardian* of an incompetent individual.* §813.12(1)(am).</p> <p>Note: The petitioner must be the victim with the exception of the guardian for an incompetent person. §813.12(5)(d).</p> <p>Except for investigation or prosecution of a crime, civil law or municipal ordinance, an adult is a person 18 years of age or older. §48.02(1d).</p> <p>Except for investigation or prosecution of a crime, civil law or municipal ordinance, a child is a person who is less than 18 years of age. §48.02(2).</p> <p>* See definitions on last pages</p>	<p>1. Child victim</p> <p>2. Parent of child victim</p> <p>3. Stepparent of child victim</p> <p>4. Guardian* of child victim §813.122(2)(a) for 1-4.</p> <p>5. Guardian ad litem* in a matter involving a child found to be in need of protection or services. §48.235(4)(a)6.</p> <p>6. If a proceeding is brought under §48.13 [child alleged to be in need of protection or services], any party to or any governmental or social agency involved in the proceeding. §48.25(6).</p> <p>Note: There are two forms for possible use when filing a child abuse TRO petition. Form CV-412 is most commonly used. Form JC-1690 is only used when the child victim is involved in a CHIPS (Children in Need of Protection or Services) action or when the respondent is a child. §§48.13, (3), (11), 48.14(3).</p> <p>* See definitions on last pages</p>	<p>1. Individual at risk*</p> <p>2. Any person acting on behalf of an individual at risk*</p> <p>3. An elder-adult-at-risk agency* on behalf of an individual at risk</p> <p>4. Adult-at-risk agency* on behalf of an individual at risk</p> <p>Note: If the petition is filed by a person other than the individual at risk, the petitioner shall serve a copy of the petition on the individual at risk. §813.123(2)(a). (See question #38.)</p> <p>Note: If anyone other than the individual at risk petitions for the restraining order, the court must appoint a guardian ad litem. (See question #91.)</p> <p>* See definitions on last pages</p>	<p>1. Any person who has been harassed.</p> <p>2. Child</p> <p>3. Parent</p> <p>4. Stepparent</p> <p>5. Legal guardian* of a child §813.125(2)(b).</p> <p>6. Guardian ad litem* in a matter involving a child found to be in need of protection or services. §§48.235(4)a,(6).</p> <p>7. If a proceeding is brought under §48.13 [child alleged to be in need of protection or services], any party or any governmental or social agency involved in the proceeding. §48.25(6).</p> <p>Note: There are two forms for possible use when filing a harassment TRO/injunction petition. Form CV-407 is most commonly used. Form JC-1693 is only used when the child victim is involved in a CHIPS (Children in Need of Protection or Services) action or when the respondent is a child. §§48.13, (3), (11).</p> <p>* See definitions on last pages</p>

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3. Against whom may the petitioner bring an action?	<p>1. Adult Family Member*</p> <p>2. Adult Household Member*</p> <p>3. Adult Former Spouse</p> <p>4. Adult with whom have child in common</p> <p>5. Adult with whom have or have had a dating relationship*</p> <p>6. Adult caregiver*</p> <p>§§ 813.12(1)(am), (5)(a)2.</p> <p>Except for investigation or prosecution of a crime, civil law or municipal ordinance, an adult is a person 18 years of age or older. §48.02(1d).</p> <p>Except for investigation or prosecution of a crime, civil law or municipal ordinance, a child is a person who is less than 18 years of age. §48.02(2).</p> <p>* See definitions on last pages</p>	<p>1. Although §813.122 only uses the term respondent, respondent can be an adult or a child who engages in child abuse. §§48.14(10), 757.69(1)(g)7.</p> <p>2. Claim of emotional damage can be brought against parent, guardian, or legal custodian who has neglected, refused, or been unable for reasons other than poverty to obtain necessary treatment or take steps to ameliorate the symptoms. §48.02(1)(gm).</p> <p>Note: If the respondent is a child, the court assigned to exercise jurisdiction under Chapter 48 (Children’s Code) has exclusive jurisdiction & will hear the TRO/injunction. §48.14(10), §§48.14(3),(11).</p> <p>Note: If the respondent is a child [or when the child victim is involved in a CHIPS (Children in Need of Protective Services) petition], petitioner should use Form JC-1690 rather than Form CV-412. This means the hearing will be in the Chapter 48 court. §§48.13(3),(11).</p> <p>* See definitions on last pages</p>	<p>1. Person who has interfered with, or based on prior conduct of the person may interfere with, an investigation of the individual at risk,* the delivery of protective services to the individual at risk under §55.05, the delivery of protective placement under §55.06, or the delivery of services to an elder adult at risk under §46.90(5m);</p> <p>2. And that the interference complained of, if continued, would make it difficult to determine whether physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation,* neglect,* or self-neglect* has occurred, is occurring, or may recur.</p> <p>3. Person engaged in the physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation,* neglect,* harassment,* or stalking* of an individual at risk or the mistreatment of an animal.* §813.123(4)(a)2.(a) and (b).</p> <p>Note: The Respondent must be an adult. §813.123(6)(b).</p> <p>* See definitions on last pages</p>	<p>1. Adult who engages in harassment.</p> <p>2. Child who engages in harassment. Although §813.125 only uses the term respondent, respondent can be an adult or a child who engages in harassment. §§48.14(10), 757.69(1)(g), 813.125(5)(a)2.</p> <p>Note: If the respondent is a child, the court assigned to exercise jurisdiction under Chapter 48 (Children’s Code) has exclusive jurisdiction & will hear the TRO/injunction. §48.14(10), §48.14(3),(11).</p> <p>Note: If the respondent is a child [or when the child victim is involved in a CHIPS (Children in Need of Protection or Services) petition], the petitioner should use Form JC-1693 rather than Form CV-407. This means the hearing will be in the Chapter 48 court.</p>

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<p>4. What type of abuse must be alleged in the petition to obtain the TRO or injunction?</p>	<p>1. Intentional infliction of physical pain, physical injury or illness; or 2. Intentional impairment of physical condition; or 3. Violation of 1st, 2nd or 3rd degree sexual assault under §§940.225(1), (2) or (3); or 4. Stalking under §940.32; §813.12(1)(am)4 or 5. Intentional damage to physical property* belonging to the individual (petitioner) under §943.01; or 6. Threat to engage in conduct under 1, 2, 3, 4, 5. §813.12(1)(am)6.</p> <p>* See definitions on last pages</p>	<p>1. Physical injury inflicted on child by other than accidental means; or 2. Sexual intercourse or sexual contact under §940.225 [1st, 2nd, 3rd or 4th degree sexual assault], §948.02 [1st, or 2nd degree sexual assault of child], or §948.025 [repeated acts of sexual assault]; or 3. Sexual exploitation of child; or 4. Permitting, allowing or encouraging child to engage in prostitution; or 5. Causing a child to view or listen to sexual activity; or 6. Causing child to expose or exposing genitals or pubic area to child; or 7. Manufacturing methamphetamines with child physically present during manufacture, in or on premises of child's home or in motor vehicle located on premises of child's home, or under any circumstances in which a reasonable person should have known that manufacture would be seen, smelled, or heard by child; or 8. Emotional damage; or 9. Threat to engage in conduct above. §§813.122(1)(a);48.02(1)(a), (b) to (gm).</p> <p>* See definitions on last pages</p>	<p>1. Interference with, or based on prior conduct of person may interfere with, an investigation of individual at risk, delivery of protective services to the individual at risk* under §55.05, the delivery of protective placement under §55.06, or the delivery of services to an elder adult at risk* under §46.90(5m); 2. The interference complained of, if continued, would make it difficult to determine whether physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation,* neglect,* or self-neglect* has occurred, is occurring, or may recur. 3. Physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation,* neglect,* harassment,* or stalking* of an individual at risk or the mistreatment of an animal.* §813.123(4)(a)2.(a) and (b).</p> <p>* See definitions on last pages</p>	<p>1. Striking, shoving, kicking or subjecting another to physical contact or attempting or threatening to do the same; 2. Engaging in course of conduct or repeatedly committing acts which harass or intimidate another person & which serve no legitimate purpose.</p> <p>A legitimate purpose is one that is protected or permitted by law...a determination that must be left to the fact finder, taking into account all the facts and circumstances. Welytok v. Ziolkowski, 312 Wis.2d 435, 455 (citing Bachowski v. Salamone, 139 Wis.2d 397, 408 (1987)).</p> <p>3. Child Abuse under §48.02. [See §813.122 for the definitions of child abuse §48.02 on this page, two columns to the left.] 4. Sexual intercourse or sexual contact under §940.225 [1st, 2nd, 3rd or 4th degree sexual assault] 5. Stalking* under §940.32 [Intentionally engaging in a course of conduct directed at a specific person that would cause a reasonable person under similar circumstances to suffer serious emotional distress or fear of bodily injury] . Note: Injunctions must be specific as to the prohibited acts and conduct in order for the person being enjoined to know what conduct must be avoided. Bachowski, 139 Wis.2d. at 414.</p> <p>* See definitions on last pages</p>

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5. What must the court find in order to grant the TRO?	<p>1. The petition alleges necessary facts as set out in §813.12(5)(a); and</p> <p>2. There are reasonable grounds to believe the respondent has engaged in, or based on prior conduct of the petitioner and the respondent, may engage in domestic abuse of the petitioner. §813.12(3)(a); and</p> <p>3. Petitioner is in imminent danger of harm.* Blazel v. Bradley, 698 F. Supp. 756 (W.D. Wis. 1988).</p> <p>Note: A TRO may not be dismissed or denied because of the existence of a pending action or of any other court order that bars contact between the parties, nor due to the necessity of verifying the terms of an existing court order. §813.12(3)(aj).</p> <p>* See definitions on last pages</p>	<p>1. The petition alleges the necessary facts set forth in §813.122(6)(a); and</p> <p>2. There are reasonable grounds to believe the respondent has engaged in, or based on prior conduct of the child victim and the respondent, may engage in abuse of the child victim. §813.122(4)(a).</p>	<p>1. Reasonable grounds to believe that the respondent has interfered with, or based on prior conduct of the respondent may interfere with, an investigation of the individual at risk,* the delivery of protective services under §55.05 or a protective placement under §55.06, or delivery of services to an elder adult at risk under §46.90 (5m); and that the interference complained of, if continued, would make it difficult to determine whether physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation,* neglect,* or self-neglect* has occurred, is occurring, or may recur.</p> <p>2. Respondent engaged in the physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation,* neglect,* harassment,* or stalking* of an individual at risk* or mistreatment of an animal.* §813.123(4)(a)1,2</p> <p>* See definitions on last pages</p>	<p>1. The petition alleges the sufficient facts as set forth in §813.125(5)(a); and</p> <p>2. There are reasonable grounds to believe the respondent has engaged in harassment with intent to harass or intimidate the petitioner.</p> <p>Note: A TRO may not be dismissed or denied because of the existence of a pending action or of any other court order that bars contact between the parties, nor due to the necessity of verifying the terms of an existing court order. §813.125(3)(e).</p>

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6. What is the standard to issue the TRO or the injunction?	Court finds there are reasonable grounds to believe the respondent: a) has engaged in domestic abuse of the petitioner or b) based on prior conduct of the petitioner and the respondent may engage in domestic abuse of the petitioner. §813.12(3)(a)2 , §§813.12(4)(a) 1, 2, 3 .	Court finds reasonable grounds to believe a) respondent has engaged in; or b) based upon prior conduct of the child victim & respondent may engage in abuse of the child victim. §813.122(4)(a) , §813.122(5)(a) .	Court finds reasonable grounds to believe a) respondent has or based on prior conduct may interfere with investigation of elder adult at risk §46.90 or adult at risk §55.043 ; or b) respondent has interfered with the delivery of protective services or protective placement after offer of protective services/placement had been made to IAR or elder adult at risk; or c) respondent has engaged in or threatened to engage in against IAR physical, emotional or sexual abuse; treatment without consent; unreasonable confinement or restraint; financial exploitation; neglect; harassment; stalking; mistreatment of an animal connected to IAR §§813.123(4)(a)1,2, 2.b , §813.123(5)(a) .	Court finds reasonable grounds to believe the respondent has engaged in harassment with intent to harass or intimidate the petitioner. §813.125(3)(a)2 , §813.125(4)(a)3 .

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<p>7. What can the respondent be ordered to do if a TRO is issued?</p>	<ol style="list-style-type: none"> 1. Refrain from committing acts of domestic abuse against the petitioner. 2. Avoid the petitioner's residence or any other location temporarily occupied by the petitioner or both. However, if the petitioner & respondent are not married, the respondent owns the premises where the petitioner resides & the petitioner has no legal interest in the premises, the court may order the respondent to avoid the premises for a reasonable length of time until the petitioner relocates & shall order the respondent to avoid the new residence for the duration of the order. 3. Avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the petitioner unless the petitioner consents in writing. 4. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet*. 5. Allow petitioner or family member or household member of petitioner to retrieve household pet*. 6. Allow petitioner out of family wireless phone service contract plan; petitioner may continue using wireless telephone number. §813.12(4g). Eff. 7/1/16. 7. Any combination of these remedies. 8. Any other appropriate remedy* not inconsistent with the remedies requested in the petition. §813.12(3)(a). The court may only grant the remedies requested or approved by the petitioner. §813.12(3)(aj). *See definitions on last pages 	<ol style="list-style-type: none"> 1. Avoid the child victim's residence or any residence temporarily occupied by the child victim or both. 2. Avoid contacting or causing any person other than a party's attorney to contact the child victim unless the petitioner consents in writing and the court agrees that the contact is in the child victim's best interest. §813.122(4)(a). 3. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet*. 4. Allow petitioner or family member or household member of petitioner to retrieve household pet*. 5. Allow petitioner out of family wireless phone service contract plan; petitioner may continue using wireless telephone number. §813.122(5c) Eff. 7/1/16. <p>Note: Contact means knowingly touching, meeting, communicating, or being in audio or visual contact. §813.122(7).</p> <p>*See definitions on last pages</p>	<p>Unless the individual at risk,* guardian* or guardian ad litem* consents in writing and court agrees that contact is in best interest of individual at risk, respondent can be ordered to do one or more of the following:</p> <ol style="list-style-type: none"> 1. Avoid interference with an investigation of elder adult at risk* under §46.90 or adult at risk* under §55.043, delivery of protective services to individual at risk under §55.05 or protective placement of individual at risk under §55.06, or delivery of services to elder adult at risk under §46.90(5m). 2. Cease engaging in or threatening to engage in physical, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation,* neglect,* harassment,* or stalking* of individual at risk* or mistreatment of an animal.* 3. Avoid residence of individual at risk* or any other location temporarily occupied by individual at risk,* or both. 4. Avoid contacting or causing any person other than a party's attorney or law enforcement officer to contact individual at risk. 5. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet*. 6. Allow IAR, guardian, GAL, family member, or household member of IAR to retrieve household pet*. 7. Allow petitioner out of family wireless phone service contract plan; petitioner may continue using wireless telephone number. §813.123(5c) Eff. 7/1/16. 8. Engage in any other appropriate remedy not inconsistent with remedies requested in petition. §§ 813.123(4)(a)&(ar). <p>*See definitions on last pages</p>	<ol style="list-style-type: none"> 1. Avoid contacting or causing any person other than a party's attorney or law enforcement officer to contact petitioner without petitioner's written consent. 2. Cease the harassment of another person. 3. Avoid the harassment of another person. 4. Avoid the petitioner's residence or any premises temporarily occupied by the petitioner or both. 5. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet*. 6. Allow petitioner or family member or household member of petitioner to retrieve household pet*. 7. Allow petitioner out of family wireless phone service contract plan; petitioner may continue using wireless telephone number. §813.125(4g) Eff. 7/1/16. 8. Any combination of these remedies.* §813.125(3)(a). <p>However, if the petitioner & respondent are not married, the respondent owns the premises where the petitioner resides & petitioner has no legal interest in the premises, the court may order the respondent to avoid the premises for a reasonable length of time until the petitioner relocates & shall order the respondent to avoid the new residence for the duration of the order. §813.125(3)(am).</p> <p>*See definitions on last pages</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
8. What will it cost to file a petition?	<p>No fee may be collected to file the petition, to serve the petition or for the cost of travel to serve the petition. §§814.61(1)(d) and §814.70.</p> <p>However, fees for the cost of filing a petition, service of the petition and travel to serve the petition may be collected from the respondent upon conviction of violation of the order. §814.61(1)(d), §814.70.</p> <p>States which receive VAWA funds [WI receives VAWA funds] are subject to a provision which states that law enforcement agencies are to serve protection orders on respondents without payment of filing fees, or costs associated with the filing, by the victim. See 42 USC 3796gg-5, 42 USC 3796hh.</p>	<p>No fee may be collected to file the petition, to serve the petition or for the cost of travel to serve the petition. §814.61(1)(d).</p> <p>However, fees for the cost of filing a petition, service of the petition and travel to serve the petition may be collected from the respondent upon conviction of violation of the order. §§814.61(1)(d), §814.70.</p> <p>If a proceeding is brought under §48.13 [CHIPS action- Children in Need of Protection or Services], any party to or any governmental or social agency involved in the CHIPS proceeding may petition the court for a TRO or injunction & no fee is required for the filing of the petition.</p> <p>States which receive VAWA funds [WI receives VAWA funds] are subject to a provision which states that law enforcement agencies are to serve protection orders on respondents without payment of filing fees, or costs associated with the filing, by the victim. See 42 USC 3796gg-5, 42 USC 3796hh.</p>	<p>No fee may be collected to file the petition, to serve the petition or for the cost of travel to serve the petition. §§814.61(1)(d), §814.70.</p> <p>However, fees for the cost of filing a petition, service of the petition and travel to serve the petition may be collected from the respondent upon conviction of violation of the order. §§814.61(1)(d), §814.70.</p> <p>States which receive VAWA funds [WI receives VAWA funds] are subject to a provision which states that law enforcement agencies are to serve protection orders on respondents without payment of filing fees, or costs associated with the filing, by the victim. See 42 USC 3796gg-5, 42 USC 3796hh.</p>	<p>If a proceeding is brought under §813.125 and does not allege domestic abuse behavior as listed in §813.12(1)(am)(1)-(6) or stalking behavior in §940.32, filing fee is collected under §814.61(1); justice information fee under §814.86(1); and court support services fee is in §814.85(1)(a). Minimum fee per attempt under §814.70. Counties may charge higher fee under §814.705. Fee for travel depends on size of the county. §814.70(3).</p> <p>Fees for cost of filing a petition or service of petition shall be collected from the respondent upon conviction of violation of order. §814.61(1)(e). No fee may be collected to file petition, to serve petition, or for cost of travel to serve petition when petition alleges conduct that is same or similar by §940.32* behavior listed in §813.12(1)(am)(1)-(6).</p> <p>States which receive VAWA funds [WI receives VAWA funds] are subject to a provision which states that law enforcement agencies are to serve protection orders on respondents without payment of filing fees, or costs associated with the filing, by the victim. See 42 USC 3796gg-5, 42 USC 3796hh.</p> <p>If a proceeding is brought under §48.13 [CHIPS action – Children in Need of Protection or Services], any party to or any governmental or social agency involved in CHIPS proceeding may petition court for TRO or injunction & no fee is required for filing of petition. §48.25(6). A petitioner can file an affidavit of indigency, CV-410, if appropriate, to waive filing fees.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
9. Where can the petition be filed (venue)?	Venue is the legally proper place where a particular case should be filed or handled. Venue dictates where a lawsuit can be brought.			
	1. County where petitioner resides 2. County where respondent resides 3. County where cause of action arose (where incident occurred) 4. County where petitioner is temporarily residing §801.50(5r) .	1. County where petitioner resides 2. County where respondent resides 3. County where cause of action arose (where incident occurred) §801.50(5s) .	1. County where claim arose §801.50(2)(a) . 2. County where defendant (respondent) resides §801.50(2)(c) .	1. County where petitioner resides 2. County where respondent resides 3. County where cause of action arose (where incident occurred) §801.50(5s) .
10. Are there other jurisdiction issues a court must consider beyond venue?	(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.)			
	<p>Yes. A court must have jurisdiction in order to hear a case. Venue is one part of jurisdiction. In addition to venue, a court must also have subject matter jurisdiction and personal jurisdiction before it can hear a case.</p> <p>Subject Matter Jurisdiction (SMJ) is the authority of the court to hear particular cases, claims, or controversies, depending upon their “subject matter,” or the type of lawsuit that is being filed. If a court lacks SMJ, any judgment by the court is void and nullified. Restraining orders are found in sections §§813.12, 813.122, 813.123 and 813.125 of the WI Statutes. Thus, because they are found in state law, Wisconsin courts have authority to hear restraining order cases. Unlike personal jurisdiction, the respondent cannot waive SMJ; the court must have SMJ regardless of respondent’s willingness for the court to hear the case without it. Subject matter jurisdiction law is found in §801.04(1).</p> <p>Personal Jurisdiction (PJ) is the authority to require a respondent to come into the state (WI) to defend against a lawsuit. When a case is brought, the court assumes PJ exists - it is the respondent’s duty to challenge PJ. Determining if the court has PJ depends on the defendant’s [respondent’s]: domicile; consent; physical presence; and minimum contacts with Wisconsin.</p> <p><u>Domicile:</u> Wisconsin has PJ over all Wisconsin residents.</p> <p><u>Consent:</u> A court may decide a case when it does not have PJ if the respondent has waived PJ.</p> <p><u>Physical Presence:</u> If the respondent is present in the state at the time the summons and complaints are served on them, then Wisconsin has PJ over the respondent.</p> <p><u>Minimum Contacts:</u> Wisconsin does have authority over a respondent from another state if the respondent has sufficient or minimum contacts with Wisconsin. When the respondent only has contact with Wisconsin in a single act, the state has PJ over respondent only as related to that single act or contact, but no PJ over unrelated claims.</p> <p>Abuse Across State Lines: Wisconsin provides three ways to allow a court to exercise PJ over a respondent in a civil restraining order case involving interstate abuse.</p> <ol style="list-style-type: none"> 1. An act or threat outside the state has an <i>adverse effect</i> on petitioner or member of petitioner’s family or household. The adverse effect must be 1) part of an ongoing harassment pattern, 2) the petitioner must currently reside in Wisconsin, AND 3) respondent has had direct or indirect communication with the petitioner or a member of the petitioner’s family or household OR the respondent has indicated a threat to the physical health or safety of the petitioner or of a member of the petitioner’s family or household. NOTE: 3) must occur while the petitioner or a member of petitioner’s family or household resides or is temporarily living in Wisconsin. 2. The petitioner or member of petitioner’s family or household has sought safety or protection in Wisconsin as a result of an act or threat of respondent giving rise to petition. Can be found if respondent has had direct or indirect communication with the petitioner/member of petitioner’s family or household OR respondent has indicated a threat to physical health or safety of petitioner or member or petitioner’s family or household. These must occur while petitioner or member of petitioner’s family or household resides or temporarily living in Wisconsin. 3. PJ permissible under United States Constitution or Wisconsin Constitution. Court can exercise PJ within constitutional limit even if a specific statute does not cover the situation. See §801.05(11m) <p>Personal jurisdiction law is found in §801.05.</p> <p>Once the petitioner has chosen the proper court system (via SMJ) in the proper state (via PJ), venue directs the petitioner as to where petitioner may bring suit within the state. See question #9.</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>11. How does a petitioner file for a TRO and/or injunction?</p>	<p>1. Petitioner locates petitions online at CV-402, or at domestic violence or sexual assault programs or through the clerk of courts office.</p> <p>2. Petitioner completes petition and files with the clerk of courts office.</p> <p>3. Once petitioner requests TRO, the court shall issue or refuse to issue the order.</p> <p>4. If the TRO is not granted, a hearing for injunction shall be set upon motion by either party. §813.12(2m).</p> <p>Note: If the TRO is granted, the order will set the date for the hearing on an injunction. §§813.12(3)(a)1, (a)2, (c).</p>	<p>1. Petitioner locates petitions online at CV-412, or at domestic violence or sexual assault programs or through the clerk of courts office.</p> <p>2. Petitioner completes petition and files with the clerk of courts office.</p> <p>3. Once petitioner requests TRO, the court shall issue or refuse to issue the order.</p> <p>4. If the TRO is not granted, a hearing for injunction shall be set upon motion by either party. §813.122(3)(a).</p> <p>Note: If the TRO is granted, the order will set the date for the hearing on an injunction. §§813.122(3)(a),(4)(a)1,(a)2,(c).</p>	<p>1. Petitioner locates petitions online at CV-428, or at domestic violence or sexual assault programs or through the clerk of courts office.</p> <p>2. Petitioner completes petition and files with the clerk of courts office.</p> <p>3. Once petitioner requests TRO, the court shall issue or refuse to issue the order.</p> <p>4. If the TRO is not granted, a hearing for injunction shall be set upon motion by either party. §813.123(3)(a).</p> <p>Note: If the TRO is granted, the order will set the date for the hearing on an injunction. §§813.123(4)(a)1,(a)2,(c).</p>	<p>1. Petitioner locates petitions online at CV-405, or at domestic violence or sexual assault programs or through the clerk of courts office.</p> <p>2. Petitioner completes petition and files with the clerk of courts office.</p> <p>3. Once petitioner requests TRO, the court shall issue or refuse to issue the order.</p> <p>4. If TRO is not granted, a hearing for injunction shall be set upon motion by either party if domestic abuse under §813.12(1)(am)(1)-(6) or stalking behavior in §940.32 is alleged in petition. §813.125(2m) .</p> <p>Note: If the TRO is granted, the order will set the date for the hearing on an injunction. §§813.125(3)(a)1,(a)2,(c).</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
12. What information should be included in a petition?	<p>1. Name of the petitioner and that petitioner is the alleged victim.</p> <p>2. The petitioner is an adult.</p> <p>3. Name of respondent and that the respondent is an adult.</p> <p>4. Respondent engaged in or based on prior conduct may engage in domestic abuse of the petitioner. §813.12(5)(a).</p> <p>5. If petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with respondent, petitioner must indicate, if known:</p> <ul style="list-style-type: none"> a. Name or type of court proceeding. b. Date of court proceeding. c. Types of provisions regarding contact with petitioner and respondent. <p>§813.12(5)(a)4.</p>	<p>1. Name of the petitioner and child victim.</p> <p>2. Name of the respondent.</p> <p>3. Respondent engaged in or based on prior conduct may engage in abuse of the child victim.</p> <p>4. If payment of child support is requested, payment is reasonable or necessary based under §767.511.</p> <p>5. If petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with respondent, petitioner must indicate, if known:</p> <ul style="list-style-type: none"> a. Name or type of court proceeding. b. Date of court proceeding. c. Types of provisions regarding contact with petitioner and respondent. <p>§813.122(6)(a) 1-5</p> <p>6. An order must include a UCCJEA Affidavit if filed against</p> <ul style="list-style-type: none"> a. A parent of the child; b. Legal guardian of child; c. Person who has court-ordered visitation with the child <p>(Form GF-150) Form GF-150 must be signed in the presence of a notary public.</p>	<p>1. Name of the petitioner and the individual at risk.</p> <p>2. Name of the respondent and that the respondent is an adult.</p> <p>3. Respondent interfered with or based on past conduct may interfere with an investigation of: elder adult at risk; adult at risk; delivery of protective services to or a protective placement of individual at risk; delivery services to elder adult at risk; or respondent engaged or threats to engage in abuse, financial exploitation,* neglect,* stalking,* or harassment* of an individual at risk or mistreatment of an animal.* §§813.123(6)(a),(6)(b),(6)(c)</p> <p>4. If petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with respondent, petitioner is to indicate any of the following if known:</p> <ul style="list-style-type: none"> a. Name or type of court proceeding. b. Date of court proceeding. c. Types of provisions regarding contact with petitioner and respondent. <p>§813.123(6)(d).</p> <p>* See definitions on last pages</p>	<p>1. Name of the person who is the alleged victim.</p> <p>2. Name of the respondent.</p> <p>3. Respondent has engaged in harassment with intent to harass or intimidate the petitioner. §813.125(5)(a).</p> <p>4. If petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with respondent, petitioner must indicate, if known:</p> <ul style="list-style-type: none"> a. Name or type of court proceeding. b. Date of court proceeding. c. Types of provisions regarding contact with petitioner and respondent. <p>§813.125(5)(a).</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
13. Can a petitioner skip filing a TRO and file for an injunction only?	Yes. The petitioner always has the right to skip filing a TRO, and in some cases the petitioner may only have an injunction hearing. For example, if the petitioner is unable to successfully file for a TRO because they cannot show they are in imminent danger, they may decide to immediately go to the injunction stage. §813.12(2m) .	Yes. The petitioner has the right to skip filing a TRO, and in some cases the petitioner may only have an injunction hearing. §813.122(3)(a) .	Yes. The petitioner has the right to skip filing a TRO, and in some cases the petitioner may only have an injunction hearing. §813.123(3)(a) .	Yes and No. YES: the petitioner can skip filing a TRO and only have an injunction hearing for personal safety (fee waiver) harassment cases. §813.125(2m) , §814.61(1) The petitioner can skip filing a TRO if the petition alleges domestic abuse behavior under §813.12(1)(am)(1)-(6) or stalking behavior under §940.32 , §814.16(1)(e) . NO: in non-personal safety (non-fee waiver) harassment cases the petitioner cannot skip filing a TRO. In addition, if TRO is denied, there is no right to an injunction hearing. See Question #8 for more information about fee waiver v. non-fee waiver harassment cases.
14. Must a petitioner tell the court about other no contact orders between the petitioner and the respondent?	Yes. If the petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with the respondent, the petitioner should include that information (including type, date, and specific provisions of the no contact order) on the petition. §813.12(5)(a)4 . The court may not dismiss or deny the petition for either the TRO or injunction based on the existence of other no contact orders between the parties. §§813.12(3)(aj)&(4)(aj) .	Yes. If the petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with the respondent, the petitioner should include that information (including type, date, and specific provisions of the no contact order) on the petition. §813.122(6)(a)5 .	Yes. If the petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with the respondent, the petitioner should include that information (including type, date, and specific provisions of the no contact order) on the petition. §813.123(6)(d) .	Yes. If the petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with the respondent, the petitioner should include that information (including type, date, and specific provisions of the no contact order) on the petition. §813.125(5)(a)4 . The court may not dismiss or deny the petition for either the TRO or injunction based on the existence of other no contact orders between the parties. §§813.125(3)(e)&(4)(aj) .

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
15. Can the victim's address be kept confidential on the TRO petition?	Yes. Petitioner's address may not be disclosed on the petition, TRO or injunction. However, petitioner shall provide the clerk of court the petitioner's address when he or she files (CV-502) . The clerk shall maintain petitioner's address in a confidential file. §813.12(5m) .	Yes. Neither the petitioner nor the child victim's address may be disclosed on the petition, TRO or injunction. However, petitioner shall provide the clerk of court the petitioner's and alleged child victim's address when he or she files a petition. The clerk shall maintain the addresses in a confidential manner. §813.122(5g) . Any record of action under §813.122 is confidential and is only available to the parties, their attorneys, a guardian ad litem, court personnel, the child victim, law enforcement and any applicable court upon appeal. A record may be available to any other person as required by law, as necessary to effect service, or upon a court order for good cause shown. §813.122(3)(bg) .	Yes. Neither the petitioner nor the individual at risk's address may be disclosed on the petition, TRO or injunction. However, petitioner shall provide the clerk of court the petitioner's and the individual at risk's address when he or she files a petition. The clerk shall maintain the addresses in a confidential manner. §813.123(5g) .	Yes. Petitioner's address may not be disclosed on the petition, TRO or injunction. However, petitioner shall provide clerk of court with petitioner's address when he or she files (CV-502) . The clerk shall maintain petitioner's address in a confidential file. §813.125(5m) .
16. Can a petitioner include his or her children or family members on a TRO petition?	No. Petition may only include: 1. Name of the petitioner and that the petitioner is the alleged victim; and 2. The victim is an adult; and 3. The name of respondent and the respondent is an adult. §813.12(5)(a) . 4. Each person who is an eligible victim must file his/her own petition. However, the court may hear two petitions at the same injunction hearing, if the respondent is the same person. §813.127 .	Yes. The petition may include: 1. Name of petitioner and child victim; and 2. Name of respondent. §813.122(6)(a) . Note: An action under this section may pertain to more than one <i>child victim</i> . §813.122(3)(c) . Court may hear two petitions at same injunction hearing, if respondent is same person. §813.127 .	No. Petitioner may only include: 1. Name of petitioner and individual at risk; and 2. Name of respondent and that respondent is an adult. §813.123(6)(a),(b) . 3. Each person who is eligible victim must file his/her own petition. However, court may hear two petitions at same injunction hearing, if respondent is same person. §813.127	No. The petitioner may only include: 1. Name of the person who is the alleged victim; and 2. Name of the respondent. §813.125(5)(a) . 3. Each person who is an eligible victim must file his/her own petition. However, the court may hear two petitions at the same injunction hearing, if the respondent is the same person. §813.127 .

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
17. Is notice required for the court to issue a TRO?	<p><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <p>No. Notice need not be given to the respondent before issuing a TRO. §813.12(3)(b), §813.122(4)(b), §813.123(4)(b), §813.125(3)(b).</p>			
18. How long is a TRO in effect?	<p><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <p>Until a hearing is held on the issuance of an injunction, which shall be within 14 days after the TRO is issued, unless an extension is granted. §§813.12(3)(c), 813.122(4)(c), 813.123(4)(c), 813.125(3)(c). Court can only extend TRO once for 14 days. <i>Hill v. D.C.</i>, 2014 WI App 99 (filed 9 Sept. 2014) (ordered published 29 Oct. 2014)</p>			
19. When can the court extend a TRO?	<p><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <p>The time may be extended upon:</p> <ol style="list-style-type: none"> 1. Written consent of parties; <i>or</i> 2. Once for 14 days upon a finding that the respondent has not been served with a copy of the TRO although the petitioner has exercised due diligence; <i>or</i> 3. If there is a substitution of judge under §801.58(2m). <p>§813.12(3)(c), §813.122(4)(c), §813.123(4)(c), §813.125(3)(c)</p>			
20. May the court extend a TRO and not rule on the injunction?	<p><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <p>No. A judge or court commissioner may not extend the TRO in lieu of ruling on the issuance of an injunction. See §813.12(3)(c), §813.122(4)(c), §813.123(4)(c), §813.125(3)(c)</p>			
21. Can the court issue a dual TRO?	<p><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <p>No. A TRO may be entered only against respondent named in the petition. See §813.12(3)(b), §813.122(4)(b), §813.123(4)(b), §813.125(3)(b).</p>			
22. Who can have contact with the petitioner on behalf of the respondent?	<p><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <p>Only law enforcement and/or the respondent's attorney may contact the petitioner. §813.12(3)(a), §813.122(4)(a), §813.123(4)(a)4., §813.125(3)(a)</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>23. If the petitioner files a domestic abuse TRO, can the court allow the petitioner to enter a stipulation to convert the petition to a harassment TRO?</p>	<p>If the parties enter a stipulation to convert a petition for TRO or injunction to a harassment TRO or injunction, the court may not approve unless:</p> <ol style="list-style-type: none"> 1. Either/both parties submit an oral request on record explaining the reason for conversion request; and 2. The court addresses petitioner personally to determine petitioner entered stipulation voluntarily and with understanding of the differences between the orders. §§813.12(5g),(a),(b). <p>Note: The WI Office of Court Operations has materials for the judiciary as to the differences between the orders.</p>	<p>§813.122 does not address this issue.</p>	<p>§813.123 does not address this issue.</p>	<p>§813.125 does not address this issue.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
24. If the court denies the request for a TRO, is an injunction hearing still possible?	<p>Yes. If a TRO is not requested, or if the court does not issue a TRO, a date for an injunction hearing <i>shall</i> be set by the court upon motion by either petitioner or respondent. §813.12(2m).</p> <p>Note: CV-402, to file for a TRO and/or injunction; if the TRO is denied, the court will complete CV-446 to assign an injunction hearing date.</p>	<p>Yes. If a TRO is not requested, or if the court does not issue a TRO, a date for an injunction hearing <i>shall</i> be set by the court upon motion by either petitioner or respondent. §813.122(3)(a).</p> <p>Note: CV-412, to file for a TRO and/or injunction; if the TRO is denied, the court will complete CV-447 to assign an injunction hearing date.</p>	<p>Yes. If a TRO is not requested, or if the court does not issue a TRO, a date for an injunction hearing <i>shall</i> be set by the court upon motion by either petitioner or respondent. §813.123(3)(a).</p> <p>Note: CV-428, to file for a TRO and/or injunction; if the TRO is denied, the court will complete CV-448 to assign an injunction hearing date.</p>	<p>Yes and No. Yes, IF a TRO is not requested, or if court does not issue a TRO, a date for an injunction hearing <i>shall</i> be set by the court upon motion by either petitioner or respondent if one of the following conditions applies:</p> <ol style="list-style-type: none"> 1. The petitioner alleges domestic abuse behavior [from §813.12(1)(am)(1)-(6)] in the TRO petition; <i>or</i> 2. The petitioner alleges stalking behavior [as defined in §940.32] in the TRO petition. <p>§813.125(2m).</p> <p>No, IF a non-fee waiver harassment case; petitioner cannot skip filing a TRO. If TRO is denied, there is no right to an injunction hearing.</p> <p>Note: CV-405, to file for a TRO and/or injunction; if the TRO is denied, the court will complete CV-449 to assign an injunction hearing date.</p>
25. Does the firearm surrender law apply when a TRO is issued?	<p>No. It only applies when an injunction is granted. §813.12(4m)(a)(2).</p>	<p>No. It only applies when an injunction is granted. §813.122(5m)(a)2.</p>	<p>No. It only applies when an injunction is granted. §813.123(5m)(a).</p>	<p>No. It only applies when an injunction is granted. §813.125(4m)(a).</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
26. Can the court order law enforcement to assist in gaining physical possession of a home after the TRO is granted?	Yes. The court shall order the sheriff to accompany the petitioner & assist in placing him or her in physical possession of his or her residence upon request by the petitioner. §813.12(6)(a). Hayen v. Hayen, 232 Wis.2d 447 (Ct. App. 1999).	§813.122 does not contain language to address law enforcement assisting the petitioner in placing him or her in physical possession of his or her residence.	§813.123 does not contain language to address law enforcement assisting the petitioner in placing him or her in physical possession of his or her residence.	Yes. The court shall order the sheriff to accompany the petitioner & assist in placing him or her in physical possession of his or her residence upon request by the petitioner. §813.125(5g)(c).
27. After a TRO is issued, is it necessary to serve the TRO on the respondent?	Yes. The petitioner serves upon the respondent a copy or summary of the petition and notice of time of the injunction hearing. §813.12(4)(a)2. The court shall advise petitioner of right to serve the respondent by published notice. §813.12(3)(d).	Yes. The petitioner serves upon the respondent a copy of the petition and notice of the time of the injunction hearing. §813.122(5)(a)2.	Yes. The petitioner must serve the respondent a copy of the petition and notice of the time for hearing on the issuance of the injunction. §813.123(5)(a)2.	Yes. The petitioner serves the respondent a copy of the TRO and notice of the time for the hearing on the issuance of the injunction. §813.125(4)(a)2. The court shall advise petitioner of right to serve the respondent by published notice. §813.125(3)(d).
28. Does the law mandate a law enforcement officer to make an arrest for violation of a TRO?	<i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i> Yes, if: 1. Presented with court order or law enforcement officer verifies a court order exists, and 2. Officer has probable cause to believe person has violated court order. §813.12(7)(am) , §813.122(10)(am) , §813.123(9)(am) , §813.125(6)(am) .			
29. Is the TRO voided if respondent is admitted into the home or if petitioner contacts respondent?	No. The TRO is not voided if the respondent is admitted into a dwelling that the order directs him or her to avoid. §813.12(3)(c).	§813.122 does not contain language to address this issue.	§813.123 does not contain language to address this issue.	§813.125 does not contain language to address this issue.

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
30. Can a TRO be enforced if other no contact orders exist?	Yes. A TRO is enforceable despite the existence of any other criminal or civil order restricting or prohibiting contact. §813.12(6)(d).	§813.122 does not address this issue.	§813.123 does not address this issue.	Yes. A TRO is enforceable despite any other criminal or civil order restricting or prohibiting contact. §813.125(5g)(d).
31. After a TRO is issued, is it necessary to serve the TRO on the respondent?	Yes. The petitioner serves upon the respondent a copy or summary of the petition and notice of time of the injunction hearing. §813.12(4)(a)2. The court shall advise petitioner of right to serve the respondent by published notice. §813.12(3)(d).	Yes. The petitioner serves upon the respondent a copy of the petition and notice of the time of the injunction hearing. §813.122(5)(a)2.	Yes. The petitioner must serve the respondent a copy of the petition and notice of the time for hearing on the issuance of the injunction. §813.123(5)(a)2.	Yes. The petitioner serves the respondent a copy of the TRO and notice of the time for the hearing on the issuance of the injunction. §813.125(4)(a)2. The court shall advise petitioner of right to serve the respondent by published notice. §813.125(3)(d).

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
32. How does the petitioner serve the TRO or injunction on the respondent?	<p>1. The clerk shall forward the documents to the sheriff and the sheriff shall assist in serving them. §813.12(6)(ag). The court shall inform petitioner in writing petitioner should contact sheriff to verify proof of service of petition. §813.12(2)(a).</p> <p>2. At petitioner's expense, the petitioner may use a private process server. §813.12(6)(a); See §801.11 for info on private service.</p> <p>3. If court extends time for a hearing & petitioner files an affidavit with court stating, personal service by sheriff or private server was unsuccessful because respondent is avoiding service by concealment or otherwise, petitioner may serve respondent by publication of summary of petition as a class 1 notice & by mailing or sending facsimile of summary. If mailing address or facsimile number cannot be ascertained with due diligence, they may be omitted. §813.12(2)(a).</p> <p>Note: If respondent has been served with a copy of petition and notice of time for hearing under §813.12(4)(a)2, respondent has constructive knowledge* of existence of injunction, regardless of whether respondent has been served with copy of injunction. §813.12(7)(c).</p> <p>* See definitions on last pages</p>	<p>1. The clerk shall forward the documents to the sheriff and the sheriff shall assist in serving them. §813.122(9)(a). The court shall inform petitioner in writing that petitioner should contact sheriff to verify proof of service of the petition. §813.122(2).</p> <p>2. §813.122 does not address the issue of private service. However, private service is possible. See §801.11.</p> <p>Note: If the respondent has been served with a copy of the petition and notice of the time for hearing under §813.122(5)(a)2, the respondent has constructive knowledge* of the existence of the injunction, regardless of whether the respondent has been served with a copy of the injunction. §813.122(10)(c).</p> <p>* See definitions on last pages</p>	<p>1. The clerk shall forward the documents to the sheriff and the sheriff shall assist in serving them. §813.123(8)(a). The court shall inform petitioner in writing that petitioner should contact sheriff to verify proof of service of the petition. §813.123(2)(a).</p> <p>2. §813.123 does not address the issue of private service. However, private service is possible. See §801.11.</p> <p>Note: If the respondent has been served with a copy of the petition and notice of the time for hearing under §813.123(5)(a)2, respondent has constructive knowledge* of existence of injunction, regardless of whether respondent has been served with a copy of injunction. §813.123(9)(c).</p> <p>* See definitions on last pages</p>	<p>1. The clerk shall forward the documents to the sheriff and the sheriff shall assist in serving them. §813.125(5g)(cm). The court shall inform petitioner in writing petitioner should contact sheriff to verify proof of service of petition. §813.125(2)(a).</p> <p>2. At petitioner's expense, petitioner may use a private process server. §813.125(5g)(c). See also §801.11.</p> <p>3. If court extends time for hearing & petitioner files an affidavit with court stating that personal service by sheriff or a private server was unsuccessful because respondent is avoiding service by concealment or otherwise, petitioner may serve respondent by publication of summary of petition as a class 1 notice & by mailing or sending facsimile of summary. If mailing address or facsimile number cannot be ascertained with due diligence, they may be omitted. §813.125(2)(a).</p> <p>Note: If respondent has been served with copy of petition and notice of time of hearing under § 813.125(4)(a)2, respondent has constructive knowledge* of existence of injunction, regardless of whether respondent has been served with a copy of injunction. §813.125(6)(c).</p> <p>* See definitions on last pages</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
33. Is law enforcement in another county/state mandated to provide service?	<p style="text-align: center;"><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <p>While other counties/states are not mandated to provide service, if one WI county receives a restraining order from another WI county which needs to be served, they generally will and do assist each other. All states which receive VAWA funds are subject to a provision which states that law enforcement agencies are to serve protection orders on respondents without payment of filing or service fees by the victim. See 42 USC 3796gg-5, 42 USC 3796hh. This provision specifically applies to WI since WI gets VAWA funds. This provision is in compliance with the STOP grants and CDS (formerly Grants to Encourage Arrest) grants, both which WI receives. Federal law says victims are not to bear any costs associated with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal or service of a protection order for any victim of domestic violence, dating violence, sexual assault or stalking whether issued inside or outside the State, tribe or local jurisdiction. Thus, since WI counties are subject to this law, they will usually provide service for an order from another county as a professional courtesy and not charge the other county or county law enforcement agency for this service.</p> <p>State law also states counties cannot charge the victim for service fees. See §813.12(6), §813.122(9), §813.123(8), §813.125(5g).</p> <p>Whether another state will provide service depends on that state's laws regarding service of out of state restraining orders. It may also depend on the policies and procedures of a particular county in that state. Again, federal legislation states that victims are not to be charged for the service of protection orders. As a result, most states will assist another state in service of the restraining order without any cost to that law enforcement agency to comply with the spirit of the federal legislation. Law enforcement agencies may wish to have a Memo of Understanding (MOU) between themselves and any other agency with whom they regularly do business to clarify this issue.</p> <p>An advocate may wish to contact the sheriff in the other county or the person who provides service in the other state to ask about the policy and procedures and to ask that law enforcement agency to assist with service of the restraining order in keeping with federal law.</p>			
34. What can the petitioner or advocate do if law enforcement in another county/state will not provide service or wishes to charge for service of the restraining order?	<p style="text-align: center;"><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <ol style="list-style-type: none"> 1. As a professional courtesy, counties and states usually provide service of restraining orders for another county or state because of the federal legislation noted in Question 33 above. Contact the law enforcement agency to be certain they are aware of this federal law. 2. Encourage the agencies within the state or county who are not providing this service to develop a Memo of Understanding (MOU) to be certain service does occur without causing hardship to the petitioner which is in violation of the spirit of federal law. 3. Contact the point person in the state in which the law enforcement agency is not providing service or wishes to charge for service to ask them to speak to the law enforcement agency about the federal law, its intent and its spirit. The point person for distribution of VAWA funds can be obtained through the National Center on Protection Orders and Full Faith & Credit. 4. While a petitioner may hire a private process server to serve the defendant at the petitioner's own expense, this WI provision [See §813.12(6)(a), §813.125(5g)(c)] is designed for situations in which the petitioner chooses a private process server for reasons known only to the petitioner. It is a violation of the federal law to force a petitioner to use and pay for a private process server because federal law says victims are not bear any costs associated with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal or service of a protection order for any victim of domestic violence, dating violence, sexual assault or stalking whether issued inside or outside the State, tribe or local jurisdiction. See §813.12(6), §813.122(9), §813.123(8), §813.125(5g). 			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
35. What information must be included in the TRO/Notice of Hearing to the respondent?	The notice shall include the time for the hearing on the issuance of the injunction. §813.12(4)(a)2.	The notice shall include the time for the hearing on the issuance of the injunction. §813.122(5)(a)2.	The notice shall include the time for the hearing on the issuance of the injunction. §813.123(5)(a)2.	1. Notice shall include time for hearing on issuance of injunction. 2. If court issues injunction, court can also order respondent not to possess a firearm while injunction is in effect. §813.125(4)(a)2.
36. Is it possible to provide notice of a TRO and/or injunction by service of publication?	Yes. A summary of the petition may be published as a class 1 notice when the respondent is avoiding service. The publication shall include the name of the petitioner and respondent, notice of the temporary restraining order, and notice of the date, time, and place of the hearing regarding the injunction. §§813.12(2)(a); §985.07. See Question 37 for service by publication instructions.	§813.122 does not address this issue.	§813.123 does not address this issue.	Yes. A summary of the petition may be published as a class 1 notice when the respondent is avoiding service. The publication shall include the name of the petitioner and respondent, notice of the temporary restraining order, and notice of the date, time, and place of the hearing regarding the injunction. §§813.125(2)(a); §985.07. See next question for service by publication instructions.

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
37. What is the process to provide service by publication?	<p>1. Determine which newspapers print Class 1 legal notices. A Class 1 notice only needs to be printed once. §985.07(1). The publication must be in a newspaper “likely to give notice in the area or to the person affected.” §985.02(1). The notice must include: name of respondent & name of petitioner; notice of TRO; notice of the date, time, & place of injunction hearing. §813.12(2)(a).</p> <p>2. Provide the required information to the newspaper in the form required. Call the newspaper to learn: fee for Class 1 notice; if the newspaper has a standard form for a Class 1 notice or if the petitioner creates their own form; how the newspaper wishes to receive the notice</p> <p>3. Once the legal notice is published, the newspaper will send an affidavit of printing to the petitioner. If the affidavit does not include a copy of the notice, the petitioner must locate a copy of the legal notice. For the hearing, the petitioner must provide the affidavit of printing and attach a copy of the notice. §985.12. No proof of service=no hearing.</p> <p>4. Mail a facsimile to the respondent if the respondent’s address is known, or can be found out with due diligence. §813.12(2)(a). Print a report to prove the facsimile was sent to the respondent or send via certified mail to receive verification of service.</p>	<p>§813.122 does not address this issue.</p>	<p>§813.123 does not address this issue.</p>	<p>1. Determine which newspapers print Class 1 legal notices. A Class 1 notice only needs to be printed once. §985.07(1). The publication must be in a newspaper “likely to give notice in the area or to the person affected.” §985.02(1). The notice must include: name of respondent & name of petitioner; notice of TRO; notice of the date, time, & place of injunction hearing. §813.125(2)(a).</p> <p>2. Provide the required information to the newspaper in the form required. Call the newspaper to learn: fee for Class 1 notice; if the newspaper has a standard form for a Class 1 notice or if the petitioner creates their own form; how the newspaper wishes to receive the notice</p> <p>3. Once the legal notice is published, the newspaper will send an affidavit of printing to the petitioner. If the affidavit does not include a copy of the notice, the petitioner must locate a copy of the legal notice. For the hearing, the petitioner must provide the affidavit of printing and attach a copy of the notice. §985.12. No proof of service=no hearing.</p> <p>4. Mail a facsimile to the respondent if the respondent’s address is known, or can be found out with due diligence. §813.125(2)(a). Print a report to prove the facsimile was sent to the respondent or send via certified mail to receive verification of service.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
38. How does VINE Protection Order (VPO) and Victim Information and Notification Everyday (VINE) apply to the service of the TRO?	<p><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS except child abuse temporary restraining orders. VPO notification of service for child abuse TRO is not possible because child abuse info is confidential; thus, child abuse TRO/injunction data is not accessible in CCAP from where VPO gets its information. Any record of a child abuse restraining order, including notification of service, is available only to the parties, their attorneys, any guardian ad litem, court personnel, the child victim, law enforcement, any applicable court upon appeal of a child abuse TRO or upon a court order for good cause shown.. See §813.122(3)(bq). Thus, if petitioner filed a child abuse TRO, petitioner must check with the sheriff to determine whether the TRO is served. Service must occur prior to the injunction hearing in order for the court to conduct the injunction hearing.)</i></p> <p>1. VPO (VINE Protective Order) When a petitioner obtains a TRO, VPO is available for notification of service, except for a child abuse TRO as noted above. IF a petitioner registers for VPO, the petitioner is notified via telephone and/or email when the TRO service is completed. The choice of notification by telephone and/or email is determined by the petitioner upon registration. If petitioner decides to use telephone notification, petitioner will receive a 4-digit PIN number upon registration. VPO's notification system will alert petitioner of service of the TRO, the injunction, and when the respondent surrenders any firearms to local law enforcement, if firearms surrender is applicable. Petitioner registers for these services only one time in order to receive service notification of the TRO, injunction, and firearm restrictions. In order to register, petitioner is encouraged to enter both the respondent's full name and full case number. However, a petitioner can enter partial information of the respondent's name and/or case number. Petitioners can register either online at https://registervpo.com/RegisterVPO/mapInitAction.do or call 1-855-948-7648. Note: VPO registration is available to the general public; thus, advocates, family members, judicial officials or others can register. The registration process is the same as noted above for the petitioner.</p> <p>2. VINE (Victim Information and Notification Everyday) VINE is a notification system that provides petitioners notification when respondents are released from jail or other custody status of the offender. Similar to VPO, the registration process and notification system are the same. Register at vinelink.com. See http://doc.wi.gov/victim-resources/notification-services for more information. Note: VPO provides notification of service of restraining orders; VINE provides information about offender status.</p>			
39. Who can petitioner contact for VPO information?	<p><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.)</i></p> <p>Petitioner may contact the Wisconsin Department of Corrections Office of Victim Services and Programs for information on VPO. Petitioner can reach the Office of Victim Services and Programs by calling 1-800-947-5777 or by visiting their website.</p>			
40. After the injunction is issued, must it be served on respondent?	Yes. Petitioner must serve respondent a copy or summary of petition and notice of the time for hearing on the issuance of the injunction. §813.12(4)(a)2.	Yes. Petitioner must serve respondent a copy of petition and notice of time for hearing on issuance of injunction. §813.122(5)(a)2.	Yes. Petitioner must serve respondent a copy of petition and notice of time for hearing on issuance of the injunction. §813.123(5)(a)2.	Yes. Petitioner serves respondent a copy of TRO and notice of time for the hearing on issuance of the injunction. §813.125(4)(a)2.
41. Is notice required before the court can issue an injunction?	Yes. Petitioner must serve respondent copy or summary of petition and notice of time for hearing on issuance of injunction. §813.12(4)(a)2.	Yes. Petitioner must serve respondent copy of petition and notice of time for hearing on issuance of injunction. §813.122(5)(a)2.	Yes. The petitioner must serve the respondent a copy of the petition and notice of the time for hearing on the issuance of the injunction. §813.123(5)(a)2.	Yes. The petitioner serves respondent a copy of TRO and notice of time for the hearing on the issuance of the injunction. §813.125(4)(a)2.

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>42. What type of conduct must be alleged/shown to allow the court to order an injunction?</p>	<p>1. Intentional infliction of physical pain, physical injury or illness; or 2. Intentional impairment of physical condition; or 3. Violation of 1st, 2nd or 3rd degree sexual assault under §§940.225(1), (2) or (3); or 4. Stalking under §940.32; §813.12(1)(am)4. or 5. Intentional damage to physical property* belonging to the individual (petitioner) under §943.01; or 6. Threat to engage in conduct under 1, 2, 3, 4, 5. §813.12(1)(am)6.</p> <p>* See definitions on last pages</p>	<p>1. Physical injury inflicted on child by other than accidental means; or 2. Sexual intercourse or sexual contact under §940.225 [1st, 2nd, 3rd or 4th degree sexual assault], §948.02 [1st, or 2nd degree sexual assault of child], or §948.025 [repeated acts of sexual assault]; or 3. Sexual exploitation of child; or 4. Permitting, allowing or encouraging child to engage in prostitution; or 5. Causing a child to view or listen to sexual activity; or 6. Causing child to expose or exposing genitals or pubic area to child; or 7. Manufacturing methamphetamines with child physically present during manufacture, in or on premises of child's home or in motor vehicle located on premises of child's home, or under any circumstances in which a reasonable person should have known that manufacture would be seen, smelled, or heard by child; or 8. Emotional damage; or 9. Threat to engage in conduct above. §§813.122(1)(a);48.02(1)(a), (b) to (gm).</p> <p>* See definitions on last pages</p>	<p>1. Interference with, or based on prior conduct of person may interfere with, an investigation of individual at risk, delivery of protective services to the individual at risk* under §55.05, the delivery of protective placement under §55.06, or the delivery of services to an elder adult at risk* under §46.90(5m); 2. The interference complained of, if continued, would make it difficult to determine whether physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation,* neglect,* or self-neglect* has occurred, is occurring, or may recur. 3. Physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation,* neglect,* harassment,* or stalking* of an individual at risk or the mistreatment of an animal.* §813.123(4)(a)2.(a) and (b).</p> <p>* See definitions on last pages</p>	<p>1. Striking, shoving, kicking or subjecting another to physical contact or attempting or threatening to do the same; 2. Engaging in course of conduct or repeatedly committing acts which harass or intimidate another person & which serve no legitimate purpose.</p> <p>A legitimate purpose is one that is protected or permitted by law...a determination that must be left to the fact finder, taking into account all the facts and circumstances. Welytok v. Ziolkowski, 312 Wis.2d 435, 455 (citing Bachowski v. Salamone, 139 Wis.2d 397, 408 (1987)).</p> <p>3. Child Abuse under §48.02. [See §813.122 for the definitions of child abuse §48.02 on this page, two columns to the left.] 4. Sexual intercourse or sexual contact under §940.225 [1st, 2nd, 3rd or 4th degree sexual assault] 5. Stalking* under §940.32 [Intentionally engaging in a course of conduct directed at a specific person that would cause a reasonable person under similar circumstances to suffer serious emotional distress or fear of bodily injury]. §813.125(1) Note: Injunctions must be specific as to the prohibited acts and conduct in order for the person being enjoined to know what conduct must be avoided. Bachowski, 139 Wis.2d. at 414.</p> <p>* See definitions on last pages</p>

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<p>43. For how long can an injunction be granted?</p>	<p>For period of time the petitioner requests, but no more than four years, except as provided below. §813.12(4)(c).</p> <p>Upon issuing an injunction [or granting an extension] of an injunction, the court may order the injunction be in effect for not more than 10 years if the court finds by a preponderance of the evidence that any of the following are true:*</p> <p>1. There is a substantial risk the respondent may commit 1st degree intentional homicide under §940.01 or 2nd degree intentional homicide under §940.05.</p> <p>2. There is a substantial risk the respondent may commit sexual assault under §940.225(1), (2), or (3) or under §948.02(1) or (2) against the petitioner. §813.12(4)(d)</p> <p>Laluzerne v. Stange, 200 Wis. 2d 179 (Ct. App. 1996): “Under clear and unambiguous language of §813.12(4)(c), injunction is effective for period of time petitioner requests.”</p>	<p>For no more than two years or until the child victim reaches 18 years of age, whichever occurs first, except as provided in §813.122(5)(dm), §813.122(5)(d).</p> <p>Upon issuing an injunction [or granting an extension] of an injunction, the court may order the injunction be in effect for not more than 5 years if the court finds by a preponderance of the evidence that any of the following is true:*</p> <p>1. There is a substantial risk the respondent may commit 1st degree intentional homicide under §940.01 or 2nd degree intentional homicide under §940.05 .</p> <p>2. There is a substantial risk the respondent may commit sexual assault under §940.225(1), (2), or (3) or under §948.02(1) or (2) against the child victim. §813.122(5)(dm)1.</p>	<p>No more than four years, except as provided below. §813.123(5)(c)1.</p> <p>Upon issuing an injunction [or granting an extension] of an injunction, the court may order the injunction be in effect for not more than 10 years if the court finds by a preponderance of the evidence that any of the following are true:*</p> <p>1. There is a substantial risk the respondent may commit 1st degree intentional homicide under §940.01 or 2nd degree intentional homicide under §940.05.</p> <p>2. There is a substantial risk the respondent may commit sexual assault under §940.225(1), (2), or (3) or under §948.02(1) or (2) against the person at risk. §813.123(5)(d).</p>	<p>No more than four years, except as provided in §813.125(4)(c), §813.125(4)(d).</p> <p>Upon issuing an injunction [or granting an extension] of an injunction, the court may order the injunction be in effect for not more than 10 years if the court finds by a preponderance of the evidence that any of the following are true:*</p> <p>1. There is a substantial risk the respondent may commit 1st degree intentional homicide under §940.01 or 2nd degree intentional homicide under §940.05.</p> <p>2. There is a substantial risk the respondent may commit sexual assault under §940.225(1), (2), or (3) or under §948.02(1) or (2) against the petitioner. §813.125(4)(d).</p>

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<p>44. What must the court find to allow the court to grant an injunction?</p>	<p>Petition has been filed alleging certain elements; and Petitioner serves petition & notice of time of hearing on respondent or respondent serves notice of time for hearing upon petitioner; and Court finds reasonable grounds to believe respondent a) has engaged in domestic abuse of petitioner or b) based on prior conduct of petitioner and respondent may engage in domestic abuse of petitioner. §813.12(4)(a).</p> <p>In determining whether to grant injunction, court shall consider potential danger posed to petitioner & pattern of abusive conduct of respondent but may not base decision solely on length of time since last domestic abuse or length of time since relationship ended. §813.12(4)(aj).</p> <p>Judge or circuit court commissioner may not dismiss or deny granting injunction because of existence of pending action or of any court order that bars contact between parties, nor due to necessity of verifying terms of an existing court order. §813.12(4)(aj).</p>	<p>Petition has been filed alleging certain elements; and Petitioner serves petition & notice of time for hearing on respondent or respondent serves notice of time for hearing upon petitioner; and Court finds reasonable grounds to believe a) respondent has engaged in or b) based upon prior conduct of the child victim & respondent may engage in abuse of the child victim. §813.122(5)(a).</p> <p>Note: If the respondent is the parent of the child victim, the judge shall provide reasonable visitation rights, unless the judge finds to do so would endanger the child's physical, mental or emotional health. Visitation may be supervised. §813.122(5)(b).</p>	<p>Petition has been filed alleging certain elements; and Petitioner serves petition & notice of hearing on respondent or respondent serves notice of time for hearing on petitioner; and Court finds reasonable cause to believe any of these:</p> <p>a. Respondent has interfered with or, based upon prior conduct, may interfere with investigation of elder adult at risk §46.90 or adult at risk under §55.043 and interference complained of, if continued, would make it difficult to determine if abuse, financial exploitation, neglect, harassment, or stalking of individual at risk or mistreatment of animal is occurring or may recur; <i>and</i> the interference complained of, if continued, would make it difficult to determine whether abuse, financial exploitation, neglect, or self-neglect has occurred, is occurring, or may recur.</p> <p>b. Respondent has interfered with delivery of protective services or protective placement under Ch. 55 after offer of protective services, placement has been made and individual at risk or his/her guardian, consented to receipt of the protective services/ placement; or respondent has interfered with delivery of services to elder adult at risk under §46.90(5m).</p> <p>c. Respondent has engaged in or threatened to engage in abuse, financial exploitation, neglect, harassment, stalking, or mistreatment of an animal. §813.123(5)(a)3.a.</p>	<ol style="list-style-type: none"> Petition alleges elements set forth in §813.125(5)(a). Petitioner serves petition & notice of time of hearing on respondent or respondent serves notice of time for hearing upon petitioner; and §813.125(4)(a)2. Court finds reasonable grounds to believe the respondent has engaged in harassment with intent to harass or intimidate the petitioner. §813.125(4)(a)3. <p>The judge or court commissioner may not dismiss or deny granting any injunction because of the existence of a pending action or of any other court order that bars contact between the parties, nor due to the necessity of verifying the terms of an existing court order. §813.125(4)(aj).</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>45. What can the respondent be ordered to do if an injunction is granted?</p>	<p>1. Refrain from committing acts of domestic abuse against the petitioner. 2. Avoid the petitioner's residence or any other location temporarily occupied by the petitioner or both. 3. If the petitioner & respondent are not married, the respondent owns the premises where the petitioner resides & the petitioner has no legal interest in the premises, the court may order the respondent to avoid the premises for a reasonable length of time until the petitioner relocates & shall order the respondent to avoid the new residence for the duration of the order. §813.12(4)(am). 4. Avoid contacting or causing any person other than a party's attorney or law enforcement officer to contact petitioner unless petitioner consents in writing. 5. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet*. 6. Allow petitioner or family member or household member of petitioner to retrieve household pet*. 7. Allow petitioner out of family wireless phone service contract plan; petitioner may continue using wireless telephone number. §813.12(4g). Eff. 7/1/16. 8. Any combination of these remedies. 9. Order any other appropriate remedy* not inconsistent with the remedies requested in the petition. §813.12(4)(a) 10. Firearms surrender is mandated. See question #64 for information on mandated firearms surrender.</p> <p>The court may only grant the remedies requested. §813.12(4)(ai).</p> <p>* See definitions on last pages</p>	<p>1. Avoid the child victim's residence or any residence temporarily occupied by the child victim or both. 2. Avoid contacting or causing any person other than a party's attorney or law enforcement officer to contact the child victim unless the petitioner consents in writing and the court agrees that the contact is in the child victim's best interest. §813.122(5)(a). 3. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet*. 4. Allow petitioner or family member or household member of petitioner to retrieve household pet*. 5. Allow petitioner out of family wireless phone service contract plan; petitioner may continue using wireless telephone number. §813.122(5c) Eff. 7/1/16. 6. Firearms surrender is mandated See question #64 for information on mandated firearms surrender.</p> <p>* See definitions on last pages</p>	<p>1. Avoid interference with an investigation of the elder adult at risk under §46.90 or the adult at risk under §55.043, the delivery of protective services to the individual at risk under §55.05 or a protective placement of the individual at risk under §55.06, or the delivery of services to the elder adult at risk under §46.90(5m). 2. Cease engaging in or threatening to engage in the physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation, neglect, harassment, or stalking of an individual at risk or the mistreatment of an animal. 3. Avoid the residence of the individual at risk or any other location temporarily occupied by the individual at risk, or both. 4. Avoid contacting /causing any person other than party's attorney or law enforcement to contact individual at risk. 5. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet*. 6. Allow petitioner or family member or household member of petitioner to retrieve household pet*. 7. Allow petitioner out of family wireless phone service contract plan; petitioner may continue using wireless telephone number. §813.123(5c) Eff. 7/1/16. 8. Any other appropriate remedy not inconsistent with the remedies requested in the petition. §813.123(5)(ar). 9. Prohibit from possessing a firearm if it is determined by clear and convincing evidence respondent may use a firearm to cause physical harm to another or to endanger public safety.</p> <p>* See definitions on last pages</p>	<p>1. Avoid contacting or causing any person other than a party's attorney or law enforcement officer to contact petitioner without petitioner's written consent. 2. Cease harassment of other person. 3. Avoid harassment of other person. 4. Avoid the petitioner's residence or any premises temporarily occupied by the petitioner or both. 5. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet*. 6. Allow petitioner/family member or household member of petitioner to retrieve household pet*. 7. Allow petitioner out of family wireless phone service contract plan; petitioner may continue using wireless telephone number. §813.125(4g) Eff. 7/1/16. 8. Any combination of these remedies. §813.125(4)(a) 9. Prohibit from possessing a firearm if it is determined by clear and convincing evidence respondent may use a firearm to cause physical harm to another or to endanger public safety. §813.125(4m)(a) However, if the petitioner & respondent are not married, the respondent owns the premises where the petitioner resides & the petitioner has no legal interest in the premises, the court may order the respondent to avoid the premises for a reasonable length of time until the petitioner relocates & shall order the respondent to avoid the new residence for the duration of the order. §813.125(4)(am).</p> <p>*See definitions on last pages</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
46. Who can have contact with the petitioner on behalf of the respondent?	<p>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</p> <p>Only law enforcement and/or the respondent's attorney may contact the petitioner. §§813.12(4)(a), 813.122(5)(a), 813.123(5)(ar)4, 813.125(4)(a).</p>			
47. Are there any orders a court may not make as part of the injunction?	<p>1. The court may not make findings or issue orders under §767.225 [child & spousal support] or §767.41 [custody & physical placement]. §813.12(2)(b).</p> <p>2. The court may not modify an order restraining the respondent based solely on the request of the respondent. §813.12(4)(b).</p>	<p>§813.122 does not list any prohibited orders. It does, however, list many orders the court may make, including orders about child support, supervised visitation and an order for a guardian ad litem. §§813.122(3)(b)1m, 813.122(5)(b), 813.122(5)(e), respectively.</p> <p>The court may not order a person who files a petition to reimburse counsel for the child who is named as a respondent in that petition. §48.23(4).</p>	<p>§813.123 does not list any prohibited orders. It does, however, note what the respondent is prohibited from doing. §813.123(7).</p>	<p>The court may not order a person who files a petition to reimburse counsel for the child who is named as a respondent in that petition. §48.23(4).</p>
48. Can the court order a dual injunction?	<p>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</p> <p>No. The court may enter an injunction only against the respondent named in the petition. §813.12(4)(b), §813.122(5)(c), §813.123(5)(b), §813.125(4)(b).</p> <p>Laluzerne v. Stange, 200 Wis. 2d 179 (Ct. App. 1996), states that §813.12(4)(b) precludes the issuing of a mutual domestic abuse injunction.</p>			
49. Can the court order an injunction against the petitioner?	<p>No. The court may enter an injunction only against the respondent named in the petition.</p> <p>No injunction may be issued under the same case number against the person petitioning for the injunction. §813.12(4)(b).</p>	<p>No. The court may enter an injunction only against the respondent named in the petition. §813.122(5)(c).</p>	<p>No. The court may enter an injunction only against the respondent named in the petition. §813.123(5)(b).</p>	<p>No. The court may enter an injunction only against the respondent named in the petition. §813.125(4)(b).</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
50. Does the law allow a service representative to be present at an injunction hearing?	Yes. An adult petitioner has the right to select a service representative*. The service representative has the right to attend, with the complainant, hearings, depositions and court proceedings, whether criminal or civil, and all interviews and meetings related to those hearings, depositions and court proceedings. See §895.45(2) . * See definitions on last pages	No. The service representative* law applies only to adult abusive complainants. See §895.45(2) . * See definitions on last pages	Yes. A petitioner has the right to select a service representative* to attend the hearing if the crime alleged in the petition meets the requirements of the statute. See §813.123(3)(c)1 . * See definitions on last pages	Yes. A petitioner who is an adult abusive complainant has the right to select a service representative* to attend the hearing if the crime alleged in the petition meets the requirements of the statute. See §895.45(2) . * See definitions on last pages
51. Can anyone be excluded from an injunction hearing?	No. A victim has the right to select a service representative* to accompany him/her, sit adjacent, and confer orally and in writing. See §895.45(2) . See Question 50 . * See definitions on last pages	Yes. All persons, other than the parties, their attorneys, witnesses, child victim advocates, a victim service representative* under §895.45 , court personnel and any guardian ad litem, shall be excluded from any hearing. §813.122(3)(bp) . Thus, advocates may be excluded from a child abuse injunction hearing unless a court determines they are present as a child victim advocate . A victim service representative under §895.45 only applies to adult abusive complainants; thus, it does not apply to a child abuse injunction hearing. In Juvenile Court, §48.299 states that the court has the right to keep the public out of all hearings. Thus, when a case is filed in juvenile court (See Question 2), a court may or may not allow an advocate to be present. See Question 50 . * See definitions on last pages	Yes. The court or circuit court commissioner may order that all persons, other than the individual at risk, the parties, their attorneys, a representative of the adult-at-risk* agency* or elder-adult-at-risk* agency*, witnesses, court personnel, and any guardian or any guardian ad litem, be excluded from any hearing. §813.123(3)(c)1 . See Question 50 . * See definitions on last pages	Yes and No. Yes for minor victims: There is nothing in §813.125 that addresses whether a child advocate can or cannot be present in civil court. A victim service representative under §895.45 only applies to adult abusive complainants; thus, it does not apply to a harassment injunction hearing involving a minor victim. In Juvenile Court, §48.299 states that the court has the right to keep the public out of all hearings. Thus, when a case is filed in juvenile court (See Question 2), a court may or may not allow an advocate to be present. No for adult victims: A victim who is an adult has the right to select a victim service representative* to accompany him/her, sit adjacent, and confer orally and in writing. See §895.45(2) . A victim service representative under §895.45 only applies to adult abusive complainants. See Question 50 . * See definitions on last pages

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52. Does Wisconsin's Victim Advocate Accompaniment Law apply to TROs and injunctions?	<p><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <p>No. Wisconsin's Victim Advocate Accompaniment Law gives survivors of sexual assault, human trafficking, and child sexual abuse the right to be accompanied by a sexual assault victim advocate throughout the criminal justice process, which does not include civil TROs and injunctions under Chapter 813. §50.378. Eff. 8/1/16.</p>			
53. After the injunction is issued, is it necessary to serve the injunction on the respondent?	Yes. Petitioner must serve respondent a copy or summary of petition and notice of the time for hearing on the issuance of the injunction. §813.12(4)(a)2.	Yes. Petitioner must serve respondent a copy of petition and notice of time for hearing on issuance of injunction. §813.122(5)(a)2.	Yes. Petitioner must serve respondent a copy of petition and notice of time for hearing on issuance of the injunction. §813.123(5)(a)2.	Yes. Petitioner serves respondent a copy of TRO and notice of time for the hearing on issuance of the injunction. §813.125(4)(a)2.
54. May the court extend a TRO and not rule on the injunction?	<p><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <p>No. A judge or court commissioner may not extend the TRO in lieu of ruling on the issuance of an injunction. See §813.12(3)(c), §813.122(4)(a), §813.123(4)(c), §813.125(3)(c).</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
55. If the petitioner files a domestic abuse injunction, can the court allow the petitioner to enter a stipulation to convert the petition to a harassment injunction?	<p>If the parties enter a stipulation to convert a petition for TRO or injunction to a harassment TRO or injunction, the court may not approve unless:</p> <ol style="list-style-type: none"> 1. Either/both parties submit an oral request on record explaining the reason for conversion request; and 2. The court addresses petitioner personally to determine petitioner entered stipulation voluntarily and with understanding of the differences between the orders. <p>§§813.12(5g), (a), (b).</p> <p>Note: The WI Office of Court Operations has materials for the judiciary as to the differences between the orders.</p>	<p>§813.122 does not address this issue.</p>	<p>§813.123 does not address this issue.</p>	<p>§813.125 does not address this issue.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>56. Can a court extend an injunction after it is granted?</p>	<p>Yes. 1. When an injunction granted for less than 4 years expires, the court shall extend the injunction if the petitioner states that an extension is necessary to protect him or her. The extension shall remain in effect until four years after the date the court first entered the injunction. §813.12(4)(c)2.</p> <p>An expired injunction can be extended if it was granted for less than 4 years. Switzer v. Switzer, 2006 WI App 10.</p> <p>2. Petitioner may request 10-year extension if there is a substantial risk the respondent may commit 1st degree intentional homicide under §940.01, 2nd degree intentional homicide under §940.05, or commit sexual assault under §940.225(1), (2), or (3) or under §948.02(1) or (2) against the petitioner.</p> <p>See Question #43.</p>	<p>Yes. 1. When injunction in effect for less than six months expires, court shall extend injunction if petitioner states extension is necessary to protect child victim. Extension shall remain in effect until 6 months after date on which court first entered injunction, or until child attains 18 years of age, whichever occurs first. §813.122(5)(d)2.</p> <p>2. If petitioner states injunction is necessary to protect child victim, court may extend an injunction for not more than 2 years or until child attains 18 years of age, whichever occurs first. §813.122(5)(d)3.</p> <p>3. Petitioner may request 5-year extension if there is a substantial risk the respondent may commit 1st degree intentional homicide under §940.01 or 2nd degree intentional homicide under §940.05, or commit sexual assault under §940.225(1), (2), or (3) or under §948.02(1) or (2) against the child victim. §813.122(5)(dm)1.</p> <p>See Question #43.</p>	<p>Yes. 1. When an injunction in effect for less than six months expires, the court shall extend the injunction if the petitioner states that an extension is necessary to protect the individual at risk. This extension shall remain in effect until 6 months after the date on which the court first entered the injunction.</p> <p>2. If the petitioner states an extension is necessary to protect the individual at risk, the court may extend the injunction for not more than 2 years. §813.123(5)(c)1.</p> <p>3. Petitioner may request 10-year extension if there is a substantial risk the respondent may commit 1st degree intentional homicide under §940.01, 2nd degree intentional homicide under §940.05, or commit sexual assault under §940.225(1), (2), or (3) or under §948.02(1) or (2) against the person at risk. §813.123(5)(d).</p> <p>See Question #43.</p>	<p>Yes. Upon granting an extension of an injunction, the court may order the injunction be in effect for not more than 10 years if the court finds by a preponderance of the evidence that any of the following are true:</p> <p>1. There is a substantial risk the respondent may commit 1st degree intentional homicide under §940.01 or 2nd degree intentional homicide under §940.05.</p> <p>2. There is a substantial risk the respondent may commit sexual assault under §940.225(1), (2), or (3) or under §948.02(1) or (2) against the petitioner. §813.125(4)(d).</p> <p>See Question #43.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
57. Must the court give notice before it extends an injunction?	<p>No. Notice need not be given to the respondent before extending an injunction. The clerk of courts shall notify the respondent after the court extends an injunction. §813.12(4)(c)4.</p> <p>Switzer v. Switzer, 2006 WI App 10, 709 N.W.2d 871.</p> <p>State v. Jankowski, 173 Wis. 2d 522, 496 N.W.2d 215 (1992).</p>	<p>No. Notice need not be given to the respondent before extending an injunction. The clerk of courts shall notify the respondent after the court extends an injunction. §813.122(5)(d)4.</p>	<p>No. Notice need not be given to the respondent before extending an injunction. The clerk of courts shall notify the respondent after the court extends an injunction. §813.123(5)(c)4.</p>	<p>§813.125(4) does not address this issue. Although extension can be requested in some situations, the law does not specify who is to provide notice to the respondent as to the extension.</p> <p>See Question #53.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
58. When the 4 year injunction expires, can a petitioner file for a new one against the same respondent?	Yes. TRO or injunction may file a petition. The party will need to meet the legal requirements and show that there are reasonable grounds to believe the respondent has engaged in, or based on prior conduct of the petitioner and the respondent, may engage in domestic abuse of the petitioner. §813.12(3)(a).	Yes. Any party who is eligible for a TRO or injunction may file a petition. The party will need to meet the legal requirements and show that there are reasonable grounds to believe the respondent has engaged in, or based on prior conduct of the child victim and the respondent, may engage in abuse of the child victim. §813.122(4)(a).	Yes. Any party who is eligible for a TRO or injunction may file a petition. The party will need to meet the legal requirements and show there are reasonable grounds to believe that: 1) Respondent has interfered with, or based on prior conduct of the respondent may interfere with, an investigation of the individual at risk, the delivery of protective services under §55.05 or a protective placement under §55.06 ; or 2) Respondent interfered with delivery of services to an elder adult at risk under §46.90(5m) ; and that the interference complained of, if continued, would make it difficult to determine whether abuse will continue; or 3) Respondent engaged in physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation, neglect, harassment, stalking, or mistreatment of an animal. §813.123(4)(a),1,2a&b.	Yes. Any party who is eligible for a TRO or injunction may file a petition. The party will need to meet the legal requirements and show that there are reasonable grounds to believe the respondent has engaged in harassment with intent to harass or intimidate petitioner. §813.125(4)(a).

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>59. After an injunction expires, does a new incident of abuse have to occur for the petitioner to apply for a new TRO/injunction against the same respondent?</p>	<p>No. A new domestic abuse order may succeed without new incidents, if petition alleges act of domestic abuse (see Question #4) sufficient for court to find reasonable grounds respondent has engaged in or may engage in domestic abuse of petitioner and petitioner is in imminent danger of harm (for TRO). §813.12(4).</p> <p>Court cannot base decision of whether to issue injunction solely on length of time since last incident occurred or since relationship ended. §813.12(4)(ai).</p> <p>A domestic abuse injunction may also be issued based on one incident of abuse. A pattern of abuse is considered but is not required to find that respondent engaged in or may engage in domestic abuse of petitioner. §§813.12(4)(a)&(5)(a)3.</p> <p>Issue preclusion did not apply in a domestic abuse case where a petitioner received an injunction, vacated it, and applied for a new injunction based on the same facts. The court ruled that the first petition demonstrated both the respondent's intent to cause harm and the petitioner's perception of the threat of harm. The new petition "certainly did not wipe out the historical facts that underlay her [first] petition." Wittig v. Hoffart, 2005 WI App 198. Issue preclusion did not apply.</p>	<p>No. A new child abuse order may succeed without new incidents, if the petition alleges an act of child abuse (see Question #4), sufficient for the judge to find reasonable grounds that the respondent has engaged in or may engage in abuse of the child victim. §813.122(5).</p> <p>Because the interests of children are involved, as a matter of public policy, issue preclusion may not be applied as strictly as in other cases. Brown County DHS v. Terrance M., 2005 WI App 57</p>	<p>No. A new individuals at risk order may succeed without new incidents, if petition alleges a prohibited act (see Question #4), sufficient for judge to find reasonable cause to believe that:</p> <ol style="list-style-type: none"> 1) Respondent has interfered or may interfere with investigation of individual at risk, and continued interference would make it difficult to determine acts of abuse (see Question #4) have occurred or may recur without a new injunction; 2) Respondent has interfered with delivery of protective services for or placement of individual at risk; or 3) Respondent has engaged in or threatened to engage in abuse (see Question #4) of individual at risk. §813.123(5). 	<p>No. A new harassment order may succeed without new incidents, if the petition alleges:</p> <ol style="list-style-type: none"> 1) An act of physical violence or threats of same violence (see Question #4), and petitioner demonstrates continued perceived threats; 2) A course of conduct to harass/intimidate, serving no legitimate purpose, and the petitioner demonstrates continued intimidation; 3) Child abuse (as defined in Question #4); 4) Sexual intercourse or sexual contact (under §940.225); or 5) Stalking (under §940.32), if past acts indicate intent to continue, and petitioner demonstrates a reasonable person would continue to suffer serious emotional distress or fear of bodily injury. §813.125(4).

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>60. What is issue preclusion (collateral estoppel) and what is claim preclusion (res judicata)?</p>	<p><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.)</i></p>			
	<p>Issue preclusion and claim preclusion are separate doctrines. Although some states view issue preclusion and claim preclusion as interchangeable, Wisconsin views the two concepts as separate doctrines. Kruckenberg v. Harvey, 2005 WI 43, 279 Wis. 2d 520, 694 N.W.2d 879. Issue preclusion deals with whether you can re-litigate an issue litigated in an earlier case. Claim preclusion deals with whether you can file a second suit based on the same claim filed in an earlier lawsuit.</p> <p>Issue Preclusion, also known as collateral estoppel, is a doctrine designed to limit the relitigation of issues contested in a previous action between the same or different parties. Michelle T. v. Crozier, 173 Wis. 2d 681 (1993). If the court decides that the issue is precluded because it has already been decided, the court may require new information or a new incident of abuse/harassment before a new injunction is granted. Issue preclusion did not apply in a domestic abuse injunction case where a petitioner received an injunction, vacated it, and applied for a new injunction based on the same facts. The court ruled that the first petition demonstrated both the respondent’s intent to cause harm and the petitioner’s perception of the threat of harm. The new petition “certainly did not wipe out the historical facts that underlay her [first] petition.” Wittig v. Hoffart, 2005 WI App 198.</p> <p>In order for a court to find the issue precluded, the court should apply a 2-part test to determine whether issue preclusion can legally be applied and, if so, whether the application of issue preclusion would be fundamentally fair. Estate of Rille v. Physicians Ins. Co., 2007 WI 36. Issue preclusion can only be applied if the matter has been “actually litigated” (and conclusively decided) in a prior court proceeding. A circuit court then has discretion to decide whether applying issue preclusion would rationally conform to principles of fundamental fairness, considering five specific factors enunciated in Michelle T. v. Crozier, 173 Wis. 2d 681 (1993). Determination of the factors is generally within the court’s discretion.</p> <p>Issue preclusion does not prevent petitioner from applying for 2nd injunction based on same facts from 1st injunction.</p>		<p>Claim preclusion, also known as res judicata, is a doctrine designed to relieve parties of the cost and burden of multiple lawsuits, conserve judicial resources, prevent inconsistent decisions, encourage reliance on adjudication, and promote mutual recognition between the state and federal courts. Allen v. McCurry, 449 U.S. 90 (1980).</p> <p>Claim preclusion includes 3 elements: 1) an identity between the parties or their privies in the prior and present suits (privity exists when there are the same parties or there is a substantial identity of interest between a party and a non-party such that the non-party’s interest are protected by the parity in the litigation.); 2) an identity between the causes of action in the two suits (the same evidence used in both suits); and 3) a final judgment of the original court. Wickenhauser v. Lehtinen, 2007 WI 82, 302 Wis.2d 41, 734 N.W.2d 855.</p> <p>Fundamental fairness can be applied in issue preclusion; however, Wisconsin case law explicitly states that fundamental fairness cannot be applied to claim preclusion. Kruckenberg v. Harvey, 2005 WI 43, 279 Wis. 2d 520, 694 N.W.2d 879.</p> <p>“Nevertheless, narrow, clear, special circumstances exceptions to claim preclusion have been recognized; they are viewed as less likely to undermine certainty in the doctrine of claim preclusion than are case-by-case determinations based on fairness.” Kruckenberg v. Harvey, 2005 WI 43, 279 Wis. 2d 520, 694 N.W.2d 879.</p> <p>In Kruckenberg, the Wisconsin Supreme Court looked to the Restatement of Judgments (Second) §26(1) for the articulation of “special circumstances” that justified not applying the doctrine of claim preclusion in lawsuits related to property boundaries. Although Wisconsin courts have not established the relationship between claim preclusion and restraining order petitions based on incidents included in a previous petition, a special circumstances exception in the Restatement of Judgments (or other judicially created exceptions) might apply to these cases. This matter has not been adjudicated in Wisconsin case law.</p> <p>Claim preclusion does not prevent petitioner from applying for 2nd injunction based on same facts from 1st injunction.</p>	

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>61. Will a new TRO/ injunction be issue-precluded or claim precluded if there are no new incidents of abuse?</p>	<p>First, the court must determine whether issue preclusion applies to the specific case. If the court finds that issue preclusion is applicable, it has discretion to grant the petition based on fundamental fairness. The statute “expresses the legislature’s intent to cloak victims of domestic abuse with substantial protection.” Switzer v. Switzer, 2006 WI App. 10.</p> <p>As a matter of public policy, a court must only find a rational reason why denying the petition would expose the petitioner to potential harm to pass the fundamental fairness test.</p> <p>Neither issue preclusion nor claim preclusion prevents petitioner from applying for 2nd injunction based on same facts from 1st injunction.</p>	<p>First, the court must determine whether issue preclusion applies to the specific case. If the court finds that issue preclusion is applicable as a matter of law, it has discretion to issue the injunction based on fundamental fairness. Because the interests of children are involved, as a matter of public policy, issue preclusion may not be applied as strictly as in other cases. Brown County DHS v. Terrance M., 2005 WI App 57.</p> <p>Neither issue preclusion nor claim preclusion prevents petitioner from applying for 2nd injunction based on same facts from 1st injunction.</p>	<p>First, the court must determine whether issue preclusion applies to the specific case. If the court finds that issue preclusion is applicable as a matter of law, it has the discretion to issue the injunction based on fundamental fairness. For example, individuals at risk injunctions, as a matter of public policy, protect people who are at higher risk of experiencing abuse,* neglect,* or financial exploitation. Therefore, the court could find a rational reason why denying the injunction would be unfair, based on individual circumstances that demonstrate potential harm to the petitioner if a new injunction is denied because of issue preclusion.</p> <p>Neither issue preclusion nor claim preclusion prevents petitioner from applying for 2nd injunction based on same facts from 1st injunction.</p> <p>* See definitions on last pages</p>	<p>First, the court must determine whether issue preclusion applies to the specific case. If the court finds that issue preclusion is applicable as a matter of law, it has the discretion to issue the injunction based on fundamental fairness. As a matter of public policy, the court could find a rational reason why it would be fundamental unfair to deny the injunction based on the individual circumstances of the case.</p> <p>Neither issue preclusion nor claim preclusion prevents petitioner from applying for 2nd injunction based on same facts from 1st injunction.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>62. Can respondent be arrested for violation of injunction if he/she does not attend the hearing and contacts petitioner before respondent is notified he/she is subject to the injunction?</p> <p><i>OR</i></p> <p>What is constructive knowledge?</p>	<p align="center"><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.)</i></p> <p align="center">Constructive Knowledge is the legal concept that one knew or should have known something. A respondent who fails to attend an injunction hearing but has been served with a copy of the Temporary Restraining Order (TRO) petition and notice of the injunction hearing “has constructive knowledge of the existence of the injunction and shall be arrested for violation of the injunction regardless of whether he or she has been served with a copy of the TRO petition and notice of injunction hearing.”</p> <p align="center">§§813.12(7)(c), 813.122(10)(c), 813.123(9)(c) & 813.125(6)(c). See Petition form CV-402, CV-412, CV-428 & CV-405.</p>			
<p>63. Does the law mandate a law enforcement officer to make an arrest for violation of an injunction?</p>	<p align="center"><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.)</i></p> <p align="center">Yes, if:</p> <ol style="list-style-type: none"> 1. Presented with a court order or law enforcement officer verifies court order exists, and 2. Officer has probable cause to believe person has violated court order. <p align="center">§813.12(7)(am), §813.122(10)(am), §813.123(9)(am), §813.125(6)(am).</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
64. Is there an automatic firearm surrender law against the respondent?	<p>Yes. For all petitions filed on or after 4-1-96, if the injunction is granted, the respondent must surrender any firearms* he/she owns or has in his/her possession. §813.12(4m)(a).</p> <p>When the respondent is served with a petition, the respondent should also be informed of the procedures for surrendering a firearm under §813.1285 and be given a firearm possession form with instructions for completing and returning the form. §813.12(2)(c).</p> <p>* See definitions on last pages</p>	<p>Yes. For all petitions filed on or after 4-1-96, if the injunction is granted, the respondent must surrender any firearms* he/she owns or has in his/her possession. §813.122(5m)(a).</p> <p>When the respondent is served with a petition, the respondent should also be informed of the procedures for surrendering a firearm under §813.1285 and be given a firearm possession form with instructions for completing and returning the form. §813.122(2)(b).</p> <p>* See definitions on last pages</p>	<p>No. It is not automatic. However, if the court issues an injunction and determines – based on clear & convincing evidence – that the respondent may use a firearm to cause physical harm to another or to endanger public safety, the court may prohibit the respondent from possessing a firearm.* §813.123(5m)(a).</p> <p>If the court determines a firearm surrender is necessary, the respondent should also be informed of the procedures for surrendering a firearm under §813.1285 and be given a firearm possession form with instructions for completing and returning the form. §813.123(5)(a)2.b.c.</p> <p>* See definitions on last pages</p>	<p>No. It is not automatic. However, if the court issues an injunction and determines – based on clear & convincing evidence – that the respondent may use a firearm to cause physical harm to another or to endanger public safety, the court may prohibit the respondent from possessing a firearm.* §813.125(4m)(a).</p> <p>If the court determines a firearm surrender is necessary, the respondent should also be informed of the procedures for surrendering a firearm under §813.1285 and be given a firearm possession form with instructions for completing and returning the form. §813.125(4)(a)2.b.,c.</p> <p>* See definitions on last pages</p>
65. Does the firearm surrender law apply when a TRO is issued?	<p><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.)</i></p> <p>No. It only applies when an injunction is granted. §813.12(4m)(a)(2), §813.122(5m)(a)2, §813.123(5m)(a), §813.125(4m)(a).</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
66. Are there any exceptions to who must surrender firearms?	<p>Yes. If the respondent is a peace officer, an injunction may not require the respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty. §813.12(4m)(ag).</p> <p>* Peace Officer: A person who is member of the U.S. armed forces or national guard may possess a firearm while in the line of duty. §941.29(10)(b).</p> <p>* See definitions on last pages</p>	<p>Yes. If respondent is a peace officer, an injunction may not require respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty. §813.122(5m)(ag).</p> <p>A person who is a member of the U.S. armed forces or national guard may possess a firearm while in the line of duty. §941.29(10)(b).</p> <p>* See definitions on last pages</p>	<p>Yes. If respondent is a peace officer, an order may not require respondent to surrender a firearm* that he or she is required, as a condition of employment, to possess whether or not he or she is on duty. §813.123(5m)(d).</p> <p>§941.29(10)(b) does not make a reference to persons under §813.123 in the U.S. armed forces or national guard, so they could be prosecuted if possessing a firearm even while in the line of duty.</p> <p>* See definitions on last pages</p>	<p>Yes. If respondent is a peace officer, an order may not require respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty. §813.125(4m)(cg). §941.29(10)(b) does not make a reference to persons under §813.125 in the U.S. armed forces or national guard, so they could be prosecuted if possessing a firearm even while in the line of duty.</p> <p>* See definitions on last pages</p>
67. Can anyone possess a firearm after the court has ordered firearm surrender?	<p>1. Yes. Member of the U.S. Armed Forces*, or National Guard* and in possession of a firearm while in the line of duty. §941.29(10)(b). See also §40.02(57m).</p> <p>2. Correctional officer and employed prior to May 1, 1982 and required to possess a firearm as a condition of employment. **</p> <p>*Respondent may be able to assert as an affirmative defense.</p> <p>**This exemption applies if the officer is eligible to possess a firearm under any federal law and applies while the officer is acting in an official capacity. §941.29(6).</p>	<p>1. Yes. Member of the U.S. Armed Forces,* or National Guard* and in possession of a firearm while in the line of duty. §941.29(10)(b). See also §40.02(57m).</p> <p>2. Correctional officer and employed prior to May 1, 1982 and required to possess a firearm as a condition of employment. **</p> <p>*Respondent may be able to assert as an affirmative defense.</p> <p>**This exemption applies if the officer is eligible to possess a firearm under any federal law and applies while the officer is acting in an official capacity. §941.29(6).</p>	<p>Yes.</p> <p>1. Correctional officer and employed prior to May 1, 1982 and required to possess a firearm as a condition of employment. **</p> <p>**This exemption applies if the officer is eligible to possess a firearm under any federal law and applies while the officer is acting in an official capacity §941.29(6).</p>	<p>Yes.</p> <p>1. Correctional officer and employed prior to May 1, 1982 and required to possess a firearm as a condition of employment. **</p> <p>**This exemption applies if the officer is eligible to possess a firearm under any federal law and applies while the officer is acting in an official capacity. §941.29(6).</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>68. What is the procedure for surrendering firearms when ordered by the injunction if the respondent is present at the injunction hearing?</p>	<p style="text-align: center;"><i>(THIS INFORMATION IS THE SAME FOR ALL RESTRAINING ORDERS)</i></p> <p>If the respondent is present at the injunction hearing, the court shall stay the injunction for a period not to exceed 48 hours for purposes of firearm surrender. Additionally, the respondent shall provide the court a completed firearm possession form, and the court shall verify the information on the form and make an inquiry on the record as to the contents of the form.</p> <ol style="list-style-type: none"> 1. If the firearm possession form indicates the respondent does not own a firearm and the court is satisfied the respondent does not own a firearm, the court files the firearm possession form, lift the stay of the injunction, and dismiss the extended TRO. 2. The court shall schedule a hearing within one week of the injunction hearing for the respondent to surrender firearms, stay the injunction for a period not to exceed 48 hours, and issue a surrender and extend order if: <ol style="list-style-type: none"> a. The firearm possession form indicates the respondent owns a firearm and it has not been surrendered, b. Petitioner indicates respondent possesses a firearm, or c. The court is not satisfied as to whether the respondent possesses a firearm. 3. The court may schedule a hearing to surrender firearms for any relevant reason. <p style="text-align: center;">§813.1285(2)</p>			
<p>69. What is the procedure for surrendering firearms when ordered by the injunction if the respondent is NOT present at the injunction hearing?</p>	<p style="text-align: center;"><i>(THIS INFORMATION IS THE SAME FOR ALL RESTRAINING ORDERS)</i></p> <p>If the respondent is not present at the injunction hearing, the court shall provide the petitioner with the opportunity to inform the court orally or in writing: 1) if the petitioner believes the respondent owns a firearm; and 2) the court shall request the petitioner to inform the court how many firearms the respondent owns, the make and model of any firearm, and the location of any firearm.</p> <p>After taking testimony from the petitioner, the court can do one of the following:</p> <ol style="list-style-type: none"> 1. Schedule a firearms surrender hearing within one week of the injunction hearing, continue the stay of the injunction, and issue a surrender and extend order. 2. Schedule a firearms surrender hearing within one week of the injunction hearing, lift the stay of the injunction, and send the respondent notice of the hearing. 3. If the court is satisfied that the respondent does not possess a firearm, the court shall file any firearm possession form, lift the stay of the injunction, and dismiss the temporary restraining order. No firearm surrender hearing will be scheduled. <p style="text-align: center;">§813.1285(2)</p>			
<p>70. What happens if the respondent does not attend the hearing to surrender firearms?</p>	<p style="text-align: center;"><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <p>If the respondent does not attend the hearing to surrender firearms, the court shall issue an arrest warrant for the respondent.</p> <p style="text-align: center;">§813.1285(4)(a)</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
71. What happens at the hearing to surrender firearms?	<p style="text-align: center;"><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <p>Unless the court dismisses the hearing to surrender firearms, a respondent for whom a hearing is scheduled must attend.</p> <p>At the hearing, the court shall: 1) stay the injunction for a period not to exceed 48 hours; 2) extend the TRO for 48 hours; 3) ensure the respondent completed a firearm possession form; 4) verify the information on the form; 5) make an inquiry on the record as to contents of firearm possession form, and shall do one of the following:</p> <ol style="list-style-type: none"> 1. If the respondent wants to surrender firearms to a person (3rd party) who is not the sheriff, the 3rd party must appear at the hearing to surrender firearms. At the firearm surrender hearing, the court must: 1) consider all relevant factors and input from the petitioner; 2) approve the surrender and inform the 3rd party of the requirements and penalties under s. 941.29(4); and 3) order the respondent to surrender firearms. The court must do one of the following: <ol style="list-style-type: none"> a. <u>Surrender to a 3rd Party:</u> 1) The 3rd party testifies under oath that they received the firearms listed on the respondent's firearm possession form; 2) Court determines the 3rd party is not prohibited from possessing a firearm; 3) Court shall lift any stay of the injunction and dismiss the temporary restraining order. b. <u>Surrender to the Sheriff:</u> 1) Determines the 3rd party is not prohibited from possessing a firearm; 2) Court orders sheriff to transfer the firearms to the 3rd party; 3) Court shall issue a surrender and extend the TRO. 2. If the respondent claims to have surrendered firearms to the sheriff, verify the respondent has surrendered all such firearms, lift the stay of the injunction, and dismiss the TRO. 3. Order the respondent to surrender any firearm on the firearm possession form to a sheriff in accordance with 813.1285(6) within 48 hours. The court shall issue the surrender and extend the order. 4. If the firearm possession form indicates the respondent does not possess firearms, and the court, after an inquiry, is satisfied the respondent does not possess a firearm, the court shall file the firearm possession form, lift any stay of the injunction, and dismiss the TRO. <p style="text-align: center;">§§813.1285(4) (b)1, 2, 3, 4.</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
72. Will the court ever dismiss the hearing to surrender firearms?	<p style="text-align: center;"><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <p>Yes. The court shall dismiss the hearing if the respondent:</p> <ol style="list-style-type: none"> 1. Surrenders their firearms to another person (3rd party) and all the following apply: <ul style="list-style-type: none"> - The respondent and the 3rd party appear at the initial injunction hearing. - At the injunction hearing, the 3rd party testifies under oath they received the firearms listed on firearms possession form. - At the injunction hearing, the court determines the 3rd party is not prohibited from possessing firearms. - The court informs the 3rd party of the requirements and penalties under s. 941.29(4). - The court, after considering all relevant factors and any input from petitioner, approves the surrender of the firearms. 2. The respondent surrenders their firearm to a sheriff no later than 48 hours after the injunction hearing and provides a copy of the receipt to the clerk of courts. 3. The respondent surrenders firearms to a sheriff no later than 48 hours after the injunction hearing and provides a copy of the receipt to the clerk of courts. If the respondent wants to surrender to a 3rd party, in order to dismiss the hearing to surrender firearms, the following must have occurred: (1) the 3rd party and the respondent appeared in court at the injunction hearing, (2) the court approved the surrender to the 3rd party, (3) and the sheriff determined the 3rd party was not prohibited from possessing a firearm. <p style="text-align: center;">§§813.1285(3) (a)1, 2, 3.</p>			
73. What happens if the respondent does not provide a receipt of their firearm surrender within 48 hours of the firearm hearing?	<p style="text-align: center;"><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <p>If the respondent does not provide the court, within 48 hours of the firearm hearing, a receipt that shows the surrender of all firearms subject to the order, the court shall presume the respondent is violating the order and the injunction and may do any of the following:</p> <ul style="list-style-type: none"> - Notify the sheriff of the violation for investigation and appropriate action. - Schedule another hearing to surrender firearms. - Issue a warrant to the sheriff ordering the respondent be brought before the court to show why the respondent should not be held in contempt. <p style="text-align: center;">§813.1285(4)(b)2.</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
74. Are there any third parties who may not possess a firearm?	<p style="text-align: center;"><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS)</i></p> <p>Yes. If a third party is:</p> <ol style="list-style-type: none"> 1. A minor (with some exceptions). §948.60, §948.60(3), §941.29. 2. A convicted felon §941.29(1m)(a), §941.29(1m)(b). 3. Adjudged mentally ill §941.29(1m)(c), §941.29(1m)(d). 4. Subject to court-ordered domestic abuse, child abuse or harassment injunctions. §§813.12(4m), §813.122(5m), and §813.125(4m). 5. Ordered not to possess a firearm under other state statutes. See §941.29. 6. Ordered not to possess a firearm under federal law. 			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
75. What is the process for the return of firearms?	<p>The firearms* may not be returned until:</p> <ol style="list-style-type: none"> 1. The respondent completes a petition for the return of firearms AND 2. A court orders the firearms be returned. §813.1285(7)(a). <p>* See definitions on last pages</p>	<p>The firearms* may not be returned until:</p> <ol style="list-style-type: none"> 1. The respondent completes a petition for the return of firearms AND 2. A court orders the firearms be returned. §813.1285(7)(a). <p>* See definitions on last pages</p>	<p>The firearms* may not be returned until:</p> <ol style="list-style-type: none"> 1. A court determines the injunction has been vacated or expired. 2. The court determines respondent is not prohibited from possessing a firearm under any state or federal law or any state or federal court order §813.1285(7)(a). <p>*See definitions on last pages</p>	<p>The firearms may not be returned until:</p> <ol style="list-style-type: none"> 1. The respondent completes a petition for the return of firearms AND 2. A court orders the firearms be returned. §813.1285(7)(a). <p>* See definitions on last pages</p>
76. Are there any state laws prohibiting the return of firearms?	<p align="center"><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.)</i></p> <p>Yes. §941.29*: A person cannot possess a firearm if he/she has been:</p> <ol style="list-style-type: none"> 1. Convicted of a felony in this state.** §941.29(1m)(a). 2. Convicted of a crime elsewhere that would be a felony in this state.** §941.29(1m)(b). 3. Found not guilty of a felony in this state by reason of mental disease or defect. §941.29(1m)(c). 4. Found not guilty of or not responsible for a crime elsewhere that would be a felony in this state by reason of insanity or mental disease, defect, or illness §941.29(1m)(d). 5. Committed for treatment under s. §51.20(13)(a) [involuntary commitment] and ordered not to possess a firearm under §51.20(13)(cv)1. §941.29. 6. Ordered not to possess a firearm under s. §51.20(13)(cv)1. or §51.45(13)(i)1. [involuntary commitment], §54.10(3)(f)1. [guardianship], or §55.12(10)(a) [protective services or placement]. §941.29. <p>*See §941.29(5), (6), (7) and (8) for exceptions.</p> <p>**Pardons granted after November 15, 1986 will give recipients the right to receive, possess, or transport in commerce firearms unless the pardon expressly provides otherwise. 78 Atty. Gen. 22.</p>			

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77. Are there any federal laws prohibiting the return of firearms?	<i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.)</i>			
	<p>Yes.</p> <p>The Gun Control Act (GCA) makes it unlawful for certain categories of persons to ship, transport, receive, or possess firearms. 18 USC 922(g), 18 USC 922(n). Transfers of firearms to any such prohibited persons are also unlawful. 18 USC 922(d).</p> <p>These categories include, but are not limited to, any person:</p> <ol style="list-style-type: none"> 1. Under indictment or information in any court for a crime punishable by imprisonment for a term exceeding one year; convicted of a crime punishable by imprisonment for a term exceeding one year; 2. Who is a fugitive from justice; 3. Who is an unlawful user of or addicted to any controlled substance; 4. Who has been adjudicated as a mental defective or has been committed to any mental institutions; 5. Who is an illegal alien; 6. Who has been discharged from the military under dishonorable conditions; 7. Who has renounced his or her United States citizenship; 8. Who is subject to a court order restraining the person from harassing, stalking, or threatening an intimate partner or child of the intimate partner; or 9. Who has been convicted of a misdemeanor crime of domestic violence (enacted by the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, effective September 30, 1996). 18 USC 922(g) and (n). 10. See also 18 USC 922(d)(1), 3559(a) which prohibits persons who have been convicted of any felony [a crime punishable by imprisonment for more than one year] from purchasing, receiving or possessing firearms. 			
78. Can a respondent ask the court to set up a specific date and time to return home to gather personal items?	<p>Yes. The court can grant any remedy not inconsistent with remedies requested in petition. §813.12(4)(a). In practice, courts may order respondent to work with law enforcement to contact petitioner to set up a time and date which is convenient for petitioner. Law enforcement may follow their “stand-by” policy, which usually means they will only allow a limited time to gather items.</p>	<p>§813.122 does not address this issue. However, petitioner can ask court to order respondent to work with law enforcement to contact petitioner to set up a time and date which is convenient for petitioner. Law enforcement may follow their “stand-by” policy, which usually means they will only allow a limited time to gather items.</p>	<p>Yes. Court can grant any remedy not inconsistent with remedies requested in petition. §813.123(5)(ar)5. In practice, courts may order respondent to work with law enforcement to contact petitioner to set up time and date which is convenient for petitioner. Law enforcement may follow their “stand-by” policy, which usually means they will only allow a limited time to gather items.</p>	<p>Yes. Court can grant any remedy not inconsistent with remedies requested in petition. §813.125(4)(a). In practice, courts may order respondent to work with law enforcement to contact petitioner to set up time and date which is convenient for the petitioner. Law enforcement may follow their “stand-by” policy, which means they will only allow a limited time to gather items.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
79. Does the law mandate a law enforcement officer to make an arrest for violation of an injunction?	Yes, if: 1. Presented with a court order or law enforcement officer verifies court order exists, and 2. Officer has probable cause to believe person has violated court order. §813.12(7)(am).	Yes, if: 1. Presented with court order or law enforcement officer verifies court order exists, and 2. Officer has probable cause to believe person has violated court order. §813.122(10)(am).	Yes, if: 1. Presented with a court order or the law enforcement officer verifies a court order exists, and 2. The officer has probable cause to believe person has violated the court order. §813.123(9)(am).	Yes, if: 1. Presented with a court order or the law enforcement officer verifies a court order exists, and 2. The officer has probable cause to believe person has violated the court order. §813.125(6)(am).
80. Is the injunction violated if the respondent is admitted into petitioner's home or if the petitioner initiates contact with respondent?	No. The injunction is not voided if the petitioner allows or initiates contact with the respondent or by the admittance of the respondent into a dwelling that the injunction directs him or her to avoid. §813.12(4)(c)1.	§813.122 does not address this issue.	§813.123 does not address this issue.	§813.125 does not address this issue.
81. Can an injunction be enforced if other civil or criminal no contact orders exist?	Yes. An injunction is enforceable despite the existence of any other criminal or civil order restricting or prohibiting contact. §813.12(6)(d).	§813.122 does not address this issue.	§813.123 does not address this issue.	Yes. Injunction is enforceable despite any other criminal or civil order restricting or prohibiting contact. §813.125(5g)(d).
82. Who may issue a TRO?	Judge or circuit court commissioner §§ 813.12(3)(a), 757.69(1)(m).	Judge or circuit court commissioner §§ 813.122(4)(a), 757.69(1)(j). Circuit court commissioner if assigned to juvenile matters in which respondent is a child. §757.69(1)(g).	Judge or circuit court commissioner §§ 813.123(4)(a), 757.69(1)(j).	Judge or circuit court commissioner §§813.125(3)(a), 757.69(1)(m). Circuit court commissioner if assigned to juvenile matters in which respondent is a child. §757.69(1)(g).

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
83. Who may issue an injunction?	Judge or circuit court commissioner. §§813.12(4)(a), 757.69(1)(m).	Judge. §813.122(5)(a).	Judge. §813.123(5)(a).	Judge or circuit court commissioner. §§813.125(4)(a), 757.69(1)(m). Circuit court commissioner if assigned to juvenile matters in which the respondent is a child. §757.69(1)(g).
84. Can a party request substitution of a judge?	<i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.)</i> Any party to a civil action or proceeding may file a written request, signed personally or by his or her attorney, with the clerk of courts for a substitution of a new judge for the judge assigned to the case. §801.58(1).			
85. If a party requests substitution of a judge, does the original order remain in effect?	<i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.)</i> If the judge determines that the request for substitution was made timely and in proper form, any ex parte order granted by the original judge remains in effect according to its terms. A TRO issued by the original judge is extended until the newly assigned judge holds a hearing on the issuance of an injunction. The newly assigned judge shall hear any subsequent motion to modify or vacate any ex parte order granted by the original judge. §813.12(3); §813.122(4); §813.123(4); §813.125(3); §801.58(2m).			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
86. When can a party seek a review of a restraining order decision made by a circuit court commissioner?	A party may seek a de novo review [<i>hearing de novo</i>], for any reason, of any decision or order entered by a court commissioner, including the denial of a domestic abuse TRO or injunction. A de novo review [<i>hearing de novo</i>] means a judge conducts a new hearing without consideration of the court commissioner's decision. §757.69(8) . See questions 87 & 88 for more information.	A party may seek a de novo review [<i>hearing de novo</i>], for any reason, of any decision or order entered by a court commissioner, including the denial of a child abuse TRO (note: child abuse injunctions can only be issued by a judge, so a de novo review of this injunction is not available. See questions 87 & 88 for more information. A de novo review [<i>hearing de novo</i>] means a judge conducts a new hearing without consideration of the court commissioner's decision. §757.69(8) .	A party may seek a de novo review [<i>hearing de novo</i>], for any reason, of any decision or order entered by a court commissioner, including the denial of an individual's at risk TRO. (Note: individuals at risk injunctions can only be issued by a judge, so a de novo review of this injunction is not available. See questions 87 & 88 for more information. A de novo review [<i>hearing de novo</i>] means a judge conducts a new hearing without consideration of the court commissioner's decision. §757.69(8) .	A party may seek a de novo review [<i>hearing de novo</i>], for any reason, of any decision or order entered by a court commissioner, including the denial of a harassment TRO or injunction. A de novo review [<i>hearing de novo</i>] means a judge conducts a new hearing without consideration of the court commissioner's decision. §757.69(8) . See questions 87 & 88 for more information.
87. If a party seeks a <i>de novo</i> review, does the original decision remain in effect?	(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.) Yes. Any determination, order, or ruling entered by a court commissioner remains in effect until the judge in the <i>de novo</i> hearing issues his or her final determination, order, or ruling. §813.126 .			
88. What is the process to seek a review of a decision by a circuit court commissioner?	(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.) A motion for de novo review [<i>hearing de novo</i>] in a restraining order must be filed within 30 days after issuance of the court commissioner's decision. The clerk of court shall provide notice to the nonmoving party of the filing of the hearing de novo of a TRO or injunction hearing. The clerk of court does not have to provide notice of a hearing de novo of a denied TRO. The court shall hold the hearing de novo within 30 days after the motion is filed, unless it finds good cause for an extension. §813.126 . See CV-503 , Motion for Hearing De Novo.			

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89. How can a party seek a review/appeal of a circuit court judge's decision?	<p style="text-align: center;"><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.)</i></p> <p style="text-align: center;">Note: this information applies to a judge's decision only; a court commissioner's final decision cannot be appealed. See questions 86 - 88.</p> <ol style="list-style-type: none"> 1. A party can file a motion for reconsideration to request the <i>circuit court</i> to amend its findings/conclusions or make additional findings/conclusions and change the judgment accordingly. §805.17(3). A motion for reconsideration must either provide newly discovered evidence or establish an error of law or fact; an error is demonstrated by the circuit court's misapplication of or failure to recognize existing law. Therefore, a motion for reconsideration cannot be used to introduce evidence that could have been presented at the initial hearing/trial. Koepsell's Olde Popcorn Wagons v. Koepsell's Festival Popcorn Wagons, 2004 WI App 129. 2. A party can file a motion for relief to request the trial court to reopen a decision based on certain circumstances. Some circumstances include mistake, inadvertence, surprise, excusable neglect, newly discovered evidence which entitles a party to a new trial, fraud, misrepresentation, or other misconduct of an adverse party. The motion for relief must be made within one year after the judgment was entered or the order or stipulation was made. See § 806.07. 3. Any party can file for an appeal by right requesting the <i>court of appeals</i> to review a final decision issued by a judge; a final decision is one which resolves all the issues in the dispute. An appeal is more likely to be successful if the record has been preserved, which requires a party to raise any objections to potential legal errors during the circuit court trial/hearing. Failure to make an objection typically results in that issue being waived on appeal. If an objection is not made during the trial/hearing, the losing party could ask the judge at the time of the decision to explain the legal basis for the decision, which also serves to preserve the objection. On appeal, legal questions will be decided independently, meaning that an appellate court will not defer to the trial court on questions of law. §808.03(1). <p style="margin-left: 40px;">Note: an appeal that questions whether the evidence presented was sufficient to support the circuit court's findings may be raised regardless of whether the respondent objected in the trial court to such findings. §805.17(4). Because the statutes makes these injunctions permissive ("the judge may grant...") rather than mandatory, an appellate court will only overturn the judge's discretionary decision on a sufficiency appeal if the evidence was clearly insufficient to support the injunction. In Re Lubinski, 2008 WI App 151; Welytok v. Ziolkowski, 2008 WI App 67.</p> 4. An appeal by permission can be used to appeal to the <i>court of appeals</i> any non-final order that is in writing and on file with the clerk of courts. Such appeals are meant to protect the petitioner from substantial or irreparable injury or to clarify an issue of general importance in the administration of justice. §808.03(2). <p><i>Note: An appeal is complicated, time-consuming, and difficult. The assistance of an attorney is recommended if possible. Parties who appear pro se are expected to know and follow all appellate rules, found in Chapter 809 of the Wisconsin Statutes. See question #90. See http://www.wicourts.gov/publications/guides/docs/proseappealsguide.pdf for an in-depth guide to pro se appeals.</i></p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>90. What is the process to seek a review/appeal of a <i>circuit court judge's</i> decision?</p>	<p style="text-align: center;">(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.)</p> <p style="text-align: center;">Note: this information applies to a judge's decision only; a court commissioner's final decision cannot be appealed. See questions 86 - 88.</p> <ol style="list-style-type: none"> 1. A motion for reconsideration must be filed with the <i>circuit court</i> within 20 days of the judgment. If the court does not decide a motion (or fails to act on a motion) within 90 days after the initial judgment, the motion is considered to be denied, and the time for initiating an appeal commences after <i>these</i> 90 days have passed (see answer #2). §805.17(3). 2. A party can file a motion for relief to request the trial court to reopen a decision based on certain circumstances. Some circumstances include mistake, inadvertence, surprise, excusable neglect, newly discovered evidence which entitles a party to a new trial, fraud, misrepresentation, or other misconduct of an adverse party. The motion for relief must be made within one year after the judgment was entered or the order or stipulation was made. See §806.07. 3. A Notice of Appeal for an appeal by right must be filed with the <i>court of appeals</i> within 45 days of the judgment if the party received written notice of the judgment; if no written notice was received, a party has 90 days to file. If the party first filed a motion for reconsideration (see answer #1), the time for initiating an appeal commences when the court denies the motion on the record or when an order denying the motion is entered, whichever occurs first. If the court failed to decide a motion within 90 days of the original judgment and the motion is thus "denied," the 90-day appeal timeframe begins after the original 90 days (following the circuit court judgment) have passed. A fee must be included with the original Notice of Appeal. Within 14 days of this initial filing, a party must file a Statement on Transcript (note: a transcript is needed if the appeal refers to any statements made in court, and a request for the transcript should be filed with the circuit court before this Statement on Transcript is filed with the appellate court). §§805.17, 808.04(1). 4. For an appeal by permission, a party must file a petition and supporting memorandum (see §809.50 for guidelines) asking a <i>court of appeals</i> for permission to appeal within 14 days of the entry of the non-final judgment being appealed. A filing fee must be included with the petition. Any opposing party has 14 days to file a response after receiving notice of the original appellate petition. If the appellate court grants permission for the appeal, the appellant-party must file a Statement on Transcript within 14 days (see answer #2 for information about transcript requirements). §809.50. <p>See http://www.wicourts.gov/publications/guides/docs/proseappealsguide.pdf for an in-depth guide to <i>pro se</i> appeals.</p>			

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91. Does the law say anything about a guardian ad litem (GAL)?	No. However, §813.12(5)(d) refers to a guardian in a case where an individual is adjudicated incompetent. This is NOT a reference to a guardian ad litem.*	Yes. The court or circuit court commissioner, on its own motion or the motion of any party may order a guardian ad litem* be appointed for child victim in accordance to §48.235. §813.122(3)(b)1m. Court shall appoint a guardian ad litem if respondent is a parent of child victim. §813.122(3)(b)2m. A guardian ad litem is not necessary for child victim to petition for TRO or injunction. §813.122(2).	Yes. The court on its own motion or on the motion of any party shall order that a guardian ad litem* be appointed for the individual at risk, if the petition was filed by a person other than the individual at risk, and may order that a guardian ad litem be appointed in other instances when justice so requires. §813.123(3)(b).	Yes. The court on its own motion or on the motion of any party may appoint a guardian ad litem* for a child petitioner or child respondent. §813.125(2g). A guardian ad litem is not necessary for a child victim to petition for a TRO or injunction. §813.125(2)(b).
	* See definitions on last pages	* See definitions on last pages	* See definitions on last pages	* See definitions on last pages
92. If court appoints a guardian ad litem (GAL), who pays GAL fees?	Statute does not address this issue. However, §813.12 does not include an appointment for a guardian ad litem (GAL).	1. The court may not order the child victim or any parent, stepparent, or legal guardian of the child victim who is not a party to the action, to pay any part of the guardian ad litem fees. This means the court cannot order the non-offending parent, stepparent, or legal guardian to pay the GAL fees. §48.235(8)(c)3. 2. The court may order either or both of the parents of a child for whom a guardian ad litem is appointed under §813.122 to pay all or any part of the compensation of the guardian ad litem. However, if one or both parents are indigent or if the court determines it would be unfair for the parent to pay, the court may order the county to pay GAL fees. See §48.235(8)(b).	Whoever the court orders to pay the guardian ad litem fees. The petitioner may wish to request that GAL fees be paid by the respondent.	1. The court may not order the child victim or any parent, stepparent, or legal guardian of the child victim who is not a party to the action, to pay any part of the guardian ad litem fees. This means the court cannot order the non-offending parent, stepparent, or legal guardian to pay the GAL fees. §48.235(8)(c)3. 2. The court may order either or both of the parents of a child for whom a guardian ad litem is appointed under §813.125 to pay all or any part of the compensation of the guardian ad litem. See §48.235(8)(b). However, if one or both parents are indigent or if the court determines it would be unfair for the parent to pay, the court may order the county to pay GAL fees. See §48.235(8)(b).

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
93. Must the court or clerk of circuit court provide the petitioner any help?	<p>1. Yes. Court shall advise petitioner of right to serve respondent petition by published notice if with due diligence respondent cannot be served as provided under §§801.11(1)(a), (b), (c); 813.12(3)(d).</p> <p>2. Clerk of court shall assist petitioner with preparation of notice and filing of affidavit. §813.12(3)(d).</p> <p>3. Clerk of court shall provide simplified forms provided under §49.165(3)(c) to help person file a petition. §813.12(5)(b).</p> <p>4. Within 24 hours after request by petitioner, clerk of circuit court shall send a copy of any order issued or provide notice of any order to sheriff or to any other local law enforcement agency which is the central repository for orders & has jurisdiction of petitioner's premises. §813.12(6)(b).</p>	<p>1. Upon request, the clerk of court shall provide, without cost, the simplified forms obtained under §48.47(7)(d) to a petitioner. §813.122(6)(b).</p> <p>2. Within 24 hours after request by the petitioner, the clerk of circuit court shall send a copy of any order issued or provide notice of any order to the sheriff or to any other local law enforcement agency which is the central repository for orders & which has jurisdiction over the petitioner's premises. §813.122(9)(b).</p>	<p>1. Within one business day after request by the petitioner, the clerk of circuit court shall send a copy of any order issued or provide notice of any order to the sheriff or to any other local law enforcement agency which is the central repository for orders & which has jurisdiction over the petitioner's premises. §813.123(8)(b).</p>	<p>1. Yes. The clerk of court shall assist the petitioner with the preparation of the notice and filing of the affidavit of printing. §813.125(3)(d).</p> <p>2. The clerk of court shall provide the simplified forms provided under §49.165(3)(c) to help a person file a petition. §813.125(5)(b).</p>
94. Are there other laws which might assist a petitioner?	<p style="text-align: center;"><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.)</i></p> <p>1. §813.115 - Service notification system.</p> <p>2. §895.45(1)(c) - Victim service representative.</p> <p>3. Chapter 949 - Crime Victim Compensation, if victim has reported the crime & it is compensable.</p> <p>4. Chapter 950 - Rights of victims & witnesses of crime, if respondent is charged with crime.</p> <p>5. CVRB 1 - Complaint Procedure: procedures for the review of complaints made to the crime victims' rights board.</p>			

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95. How does a petitioner modify a TRO or injunction?	<p>1. Court may not modify an order restraining the respondent based solely on the request of the respondent. §813.12(4)(b).</p> <p>2. An order made out of court without notice may be modified without notice by judge who made it. §807.03.</p> <p>3. An order made upon notice shall not be modified except by court upon notice. §807.03.</p> <p>4. A petitioner may put a request in writing to the court stating what they wish to modify and why. After receiving the request, the court will probably conduct a hearing to determine whether to grant the modification. The court might also make a decision and inform the parties in writing of its decision rather than conduct a hearing.</p>	<p>1. If respondent is parent of child victim, judge shall modify the order to provide parent reasonable visitation rights, unless judge finds that visitation would endanger child’s physical, mental, or emotional health. Visitations may be supervised. §813.122(5)(b).</p> <p>2. An order made out of court without notice may be modified without notice by judge who made it. §807.03.</p> <p>3. An order made upon notice shall not be modified except by court upon notice. §807.03.</p> <p>4. A petitioner may put a request in writing to court stating what they wish to modify and why. After receiving request, court will probably conduct a hearing to determine whether to grant the modification. The court might also make a decision and inform the parties in writing of its decision rather than conduct a hearing.</p>	<p>1. An order made out of court without notice may be modified without notice by the judge who made it. §807.03.</p> <p>2. An order made upon notice shall not be modified except by the court upon notice. §807.03.</p> <p>3. A petitioner may put a request in writing to the court stating what they wish to modify and why. After receiving the request, the court will probably conduct a hearing to determine whether to grant the modification. The court might also make a decision and inform the parties in writing of its decision rather than conduct a hearing.</p>	<p>1. An order made out of court without notice may be modified without notice by the judge who made it. §807.03.</p> <p>2. An order made upon notice shall not be modified except by the court upon notice. §807.03.</p> <p>3. A petitioner may put a request in writing to the court stating what they wish to modify and why. After receiving the request, the court will probably conduct a hearing to determine whether to grant the modification. The court might also make a decision and inform the parties in writing of its decision rather than conduct a hearing.</p>

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96. How does a petitioner drop a TRO or injunction?	<p style="text-align: center;"><i>(THIS INFORMATION IS THE SAME FOR ALL TYPES OF RESTRAINING ORDERS.)</i></p> <p>§813.12, §813.122, §813.123 and §813.125 do not address this issue.</p> <p>However, a court has authority to drop or vacate an order in at least 3 ways:</p> <ol style="list-style-type: none"> 1. §807.03 (Vacate an Order); 2. §806.07 (Relief from a judgment or order); 3. Inherent powers of court to do justice (Discussed in case law). <p>A petitioner may make a request to drop order in writing.*</p> <p>*The petitioner may wish to write a letter to the court, stating why s/he wishes to have the order dropped.</p> <ol style="list-style-type: none"> 1. This letter should inquire whether anything further needs to be done to have the order dismissed. 2. The petitioner should sign the letter. <p>After receiving the letter, a court will probably set a date for a hearing for which both parties will receive notice or consider the request a motion to dismiss & send an order to both parties granting the request. If the judge grants the order, the order to dismiss should be sent to the sheriff's department so they can remove the restraining order from their files.</p> <p>See Form CV-409, <i>Dismissal Order(Injunction)</i></p>			

Glossary Term	Definition	Where Found in statute or other Sources
Abuse, under 813.12 (abuse as defined in the domestic abuse restraining order)	Domestic abuse is defined as an adult engaging in the following behavior against an adult: 1. Intentional infliction of physical pain, physical injury or illness; <i>or</i> 2. Intentional impairment of physical condition; <i>or</i> 3. Violation of 1 st , 2 nd or 3 rd degree sexual assault under §§940.225(1), (2) or (3) ; <i>or</i> 4. Violation of stalking under §940.32(1)(a) ; <i>or</i> 5. Intentional damage to physical property* belonging to the individual (petitioner) under §943.01 ; <i>or</i> 6. Threat to engage in conduct under 1,2,3,4, 5. §813.12(1)(am)6.	§§813.12(1)(am), 943.01, 940.32(1)(a)
Abuse, under 813.122 (abuse as defined in the child abuse restraining order)	1. Physical injury inflicted on child by other than accidental means; <i>or</i> 2. Sexual intercourse or sexual contact under §940.225 [1 st , 2 nd , 3 rd or 4 th degree sexual assault], §948.02 [1 st , or 2 nd degree sexual assault of child], <i>or</i> §948.025 [repeated acts of sexual assault]; <i>or</i> 3. Sexual exploitation of child; <i>or</i> 4. Permitting, allowing or encouraging child to engage in prostitution; <i>or</i> 5. Causing a child to view or listen to sexual activity; <i>or</i> 6. Causing child to expose or exposing genitals or pubic area to child; <i>or</i> 7. Manufacturing methamphetamines with a child physically present during the manufacture, in or on the premises of a child's home or in a motor vehicle located on the premises of a child's home, or under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child; <i>or</i> 8. Emotional damage; <i>or</i> 9. Threat to engage in conduct above.	§§813.122(1)(a); 48.02(1)(a) & (b) to (gm)

Glossary Term	Definition	Where Found in statute or other Sources
Abuse, under 813.123 (abuse as defined in the individual at risk restraining order)	<p>“Abuse” includes the following: physical abuse, emotional abuse, and sexual abuse, treatment without consent, and unreasonable confinement or restraint.</p> <ol style="list-style-type: none"> 1. <u>Physical abuse</u>: intentional or reckless infliction of bodily harm. §46.90(1)(fg) 2. <u>Emotional abuse</u>: language or behavior that serves no legitimate purpose and is intended to be intimidating, humiliating, threatening, frightening, or otherwise harassing, and that does or reasonably could intimidate, humiliate, threaten, frighten, or otherwise harass the individual to whom the conduct or language is directed. §46.90(1)(cm) 3. <u>Sexual abuse</u>: violation of §§ 940.225(1), (2), (3), or (3m) (criminal sexual assault law). §46.90(1)(gd). 4. <u>Treatment without consent</u>: the admission of medication to an individual who has not provided informed consent, or the performance of psychosurgery, electroconvulsive therapy, or experimental research on an individual who has not provided informed consent, with the knowledge that no lawful authority exists for the administration or performance. §46.90(1)(h) 5. <u>Unreasonable confinement or restraint</u>: includes the intentional and unreasonable confinement of an individual in a locked room, involuntary separation of an individual from his or her living area, use on an individual of physical restraining device, or the provision of unnecessary or excessive medication to an individual, but does not include the use of these methods or devices, in entities regulated by the department - if the methods or devices are employed in conformance with state and federal standards governing confinement and restraint. §46.90(1)(i). 	§§46.90(1)(a), 55.01(1)

Glossary Term	Definition	Where Found in statute or other Sources
<p>Abuse, under 813.125 (abuse as defined in the harassment restraining order)</p>	<ol style="list-style-type: none"> 1. Striking, shoving, kicking or subjecting another to physical contact or attempting or threatening to do the same; 2. Engaging in course of conduct or repeatedly committing acts which harass or intimidate another person & which serve no legitimate purpose. §813.125(1). 3. Child Abuse under §48.02, which includes: <ol style="list-style-type: none"> a. Physical injury inflicted on child by other than accidental means; <i>or</i> b. Sexual intercourse or sexual contact under §940.225 [1st, 2nd, 3rd or 4th degree sexual assault], §948.02 [1st, or 2nd degree sexual assault of child], <i>or</i> §948.025 [repeated acts of sexual assault]; <i>or</i> c. Sexual exploitation of child; <i>or</i> d. Permitting, allowing or encouraging child to engage in prostitution; <i>or</i> e. Causing a child to view or listen to sexual activity; <i>or</i> f. Causing child to expose or exposing genitals or pubic area to child; <i>or</i> g. Manufacturing methamphetamines with a child physically present during the manufacture, in or on the premises of a child's home or in a motor vehicle located on the premises of a child's home, or under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child; <i>or</i> h. Emotional damage; <i>or</i> i. Threat to engage in conduct above. 4. Sexual intercourse or sexual contact under §940.225 [1st, 2nd, 3rd or 4th degree sexual assault] 5. Stalking under §940.32 [Intentionally engaging in a course of conduct directed at a specific person that would cause a reasonable person under similar circumstances to suffer serious emotional distress or fear of bodily injury] 	<p>§813.125(1)</p>

Glossary Term	Definition	Where Found in statute or other Sources
Abuse, under 968.075 (domestic abuse as defined in the mandatory arrest law)	<p>"Domestic abuse" means any of the following engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:</p> <ol style="list-style-type: none"> 1. Intentional infliction of physical pain, physical injury or illness. 2. Intentional impairment of physical condition. 3. A violation of §§940.225 (1), (2) or (3) [1st, 2nd, or 3rd degree sexual assault]. 4. A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described under subdivision 1., 2. or 3. See 968.075(1)(a). <p><u>Mandatory Arrest Law</u> A law enforcement officer shall arrest and take a person into custody if:</p> <ol style="list-style-type: none"> 1. The officer has reasonable grounds to believe that the person is committing or has committed domestic abuse (see definitions above) and that the person's actions constitute the commission of a crime; and 2. Any of the following apply: <ol style="list-style-type: none"> a. The officer has a reasonable basis for believing that continued domestic abuse against the alleged victim is likely. b. There is evidence of physical injury to the alleged victim. c. The person is the predominant aggressor. 	<p>§§968.075(1)(a), 1, 2, 3, 4.</p> <p>§968.075(2)</p>
Adult at Risk	Any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, or financial exploitation.	§55.01(1e)
Adult-at-risk Agency	The agency designated by the county board of supervisors to receive, respond to, and investigates reports of abuse, neglect, or financial exploitation.	§55.01(1f)

Glossary Term	Definition	Where Found in statute or other Sources
Elder-adult-at-risk Agency	The agency designated by the county board of supervisors to receive, respond to and investigates reports of abuse, neglect, or financial exploitation.	§46.90(1)(bt)
Ex Parte	Only one party files a motion.	Qs 1 & 85
Farm Animal	Any warm-blooded animal normally raised on farms in the United States and used or intended for use as food or fiber.	§951.01(3)
Financial Exploitation	Any of the following: Obtaining an individual's money or property by deceiving or enticing the individual, or by forcing, compelling, or coercing the individual to give, sell at less than fair market value, or in other ways convey money or property against his or her will without his or her informed consent. Theft, as prohibited in §943.20 The substantial failure or neglect of a fiscal agent to fulfill his or her responsibilities. Unauthorized use of an individual's personal identifying information or documents, as prohibited in §943.201 Unauthorized use of an entity's identifying information or documents, as prohibited in §943.203 Forgery, as prohibited in §943.38 Financial transaction card crimes, as prohibited in §943.41	§46.90(1)(ed)
Financial Responsibility (for telephone services)	Includes monthly service costs and costs associated with any mobile device associated with the number. Eff. 7/1/16.	§813.12(4g) §813.122(5c) §813.123(5c) §813.125(4g)

Glossary Term	Definition	Where Found in statute or other Sources
Firearm Surrender	Respondent must surrender any firearms they own or possess if firearm surrender order is issued. Domestic abuse and child abuse injunctions contain a mandated firearm surrender provision.	See §§813.12(4m) , 813.122(5m) , 813.123(5m) , 813.125(4m) , 813.1285 .
Firearm(s)	<p>Weapon which acts by force of gunpowder. In State v. Radon 185 Wis.2d 701, 706 (Ct. App. 1994), the court held the term firearm is appropriately defined as a weapon that acts by force of gunpowder to fire a projectile irrespective of whether it is inoperable due to a disassembly.</p> <p>Wisconsin Statute §939.22(10) defines a “dangerous weapon” as any firearm, whether loaded or unloaded.</p>	<p>§167.31(1)(c)</p> <p>§939.22(10)</p>

Glossary Term	Definition	Where Found in statute or other Sources
Global Positioning System (GPS) Tracking	<p>Tracking using a system that actively monitors and identifies a person's location and timely reports or records the person's presence in an exclusion zone.</p> <p>An order for GPS tracking is made pursuant to the court's criminal authority under Chapter 301, and is not part of certain Chapter 813 civil orders.</p> <p>The court can order GPS tracking if the court finds the respondent is more likely than not going to seriously harm the petitioner, and knowingly violates any of the following:</p> <ol style="list-style-type: none"> 1. Domestic Abuse TRO-§813.12 2. Domestic Abuse Injunction-§813.12 3. Harassment TRO-§813.125 4. Harassment Injunction-§813.125 <p>Even if the court determines that a person is more likely than not going to cause serious bodily harm to the petitioner, the court may decide other alternatives, such as imprisonment, are more likely to protect the petitioner.</p> <p>2013 Assembly Bill 40, if approved, may provide an additional, separate system implementing GPS tracking.</p>	<p>§301.49(1)(b)</p> <p>§301.49, §813.129</p> <p>§813.129(1),(2)</p> <p>§813.129(5)</p>
Guardian Ad Litem (GAL)	<p>Attorney who represents the best interest of the child.</p>	<p>§48.235(3)(a)</p>
Guardian	<p>A person appointed by the court to manage the income and assets and provide for the essential requirements for health and safety and the personal needs of a minor, an individual found incompetent under §54.01(16), or a spendthrift under §54.01(31).</p> <p>A person given responsibility or authority by the court in place of a parent in the case of a minor who is alleged to have a developmental disability Chapter 55.</p>	<p>§54.01(10)</p> <p>§55.03(3)</p>

Glossary Term	Definition	Where Found in statute or other Sources
Harassment	<p><u>Harassment in the restraining order law means any of the following:</u></p> <ol style="list-style-type: none"> 1. Striking, shoving, kicking or subjecting another to physical contact or attempting or threatening to do the same; 2. Engaging in course of conduct or repeatedly committing acts which harass or intimidate another person & which serve no legitimate purpose. §813.125(1). 3. Child Abuse under §48.02, which includes: <ol style="list-style-type: none"> a. Physical injury inflicted on child by other than accidental means; <i>or</i> b. Sexual intercourse or sexual contact under §940.225 [1st, 2nd, 3rd or 4th degree sexual assault], §948.02 [1st, or 2nd degree sexual assault of child], <i>or</i> §948.025 [repeated acts of sexual assault]; <i>or</i> c. Sexual exploitation of child; <i>or</i> d. Permitting, allowing or encouraging child to engage in prostitution; <i>or</i> e. Causing a child to view or listen to sexual activity; <i>or</i> f. Causing child to expose or exposing genitals or pubic area to child; <i>or</i> g. Manufacturing methamphetamines with a child physically present during the manufacture, in or on the premises of a child's home or in a motor vehicle located on the premises of a child's home, or under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child; <i>or</i> h. Emotional damage; <i>or</i> i. Threat to engage in conduct above. 4. Sexual intercourse or sexual contact under §940.225 [1st, 2nd, 3rd or 4th degree sexual assault] 5. Stalking under §940.32 [Intentionally engaging in a course of conduct directed at a specific person that would cause a reasonable person under similar circumstances to suffer serious emotional distress or fear of bodily injury]. <p><u>Harassment in the Wisconsin Criminal Code means:</u></p> <p>Whoever, with intent to harass or intimidate another person, does any of the following is subject to a Class B forfeiture:</p> <ol style="list-style-type: none"> (a) Strikes, shoves, kicks, or otherwise subjects the person to physical contact or attempts or threatens to do the same. (b) Engages in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose. 	<p>§813.125(1)</p> <p>§947.013</p>

Glossary Term	Definition	Where Found in statute or other Sources
Household Member	<p>Person currently or formerly residing in a place of abode with another person.</p> <p>A continuous living arrangement is required to establish that parties are or were household members.</p>	<p>§813.12(1)(c)</p> <p>Petrowsky v. Krause, 223 Wis. 2d (Ct. App. 1998).</p>
Household Pet	<p>A domestic animal that is not a “farm animal” and is kept, owned, or cared for by the petitioner or by a family member or a household member of the petitioner.</p> <p>A “farm animal” means any warm-blooded animal normally raised on farms in the United States and used or intended for use as food or fiber.</p>	<p>§813.12 (1)(ce)</p> <p>§813.122(1)(e)</p> <p>§813.123(1)(ek)</p> <p>§813.125(1)(bm)</p> <p>§951.01(3)</p>
Imminent Danger of Harm	<p>The risk of injury is very near at hand; petitioner is in immediate or foreseeable danger.</p> <p><i>Blazel v. Bradley</i> states that when courts issue an <i>ex parte</i> TRO which can remove a respondent from his/her residence, there must be four constitutionally required procedural safeguards in place. One of these safeguards is the requirement that the petition include information which indicates he or she is at risk of immediate and irreparable harm. Thus, a court must find imminent danger of harm before it can order a domestic abuse TRO. The domestic abuse petition for TRO/Injunction includes a checkbox which a petitioner must check to indicate the petitioner is in imminent danger of harm.</p>	<p>Blazel v. Bradley, 698 F. Supp. 756 (W.D. Wis. 1988)</p>
Impairment of Physical Condition	<p>Diminished capacity to perform physical tasks; placing a person in a life-threatening situation.</p>	<p>§813.12(1)(am)2</p>
Incompetent Individual	<p>A person adjudged by a court as meeting the requirements of Sec. 54.10(3). The court must find by clear and convincing evidence that:</p> <ol style="list-style-type: none"> 1) The individual is at least 17 years and 9 months; and 2) For purposes of appointment of a guardian of the person, the individual meets the requirements of §54.10(3)(a)2; and 3) For purposes of appointment of a guardian of the estate, the individual meets the requirements of §54.10(3)(a)3; and 4) The individual’s need for assistance in decision making or communication is 	<p>§54.01(16)</p>

Glossary Term	Definition	Where Found in statute or other Sources
	unable to be met effectively through other means, as explained by §54.10(3)(a)4 .	
Individual at Risk	<p>An adult at risk or an elder adult at risk.</p> <p><u>Adult at Risk</u>: Any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, or financial exploitation.</p> <p><u>Elder Adult at Risk</u>: A person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.</p>	<p>§813.123(1)(ep)</p> <p>§55.01(1e)</p> <p>§46.90(1)(br)</p>
Mistreatment of an animal	Cruel treatment of any animal owned by or in service to an individual at risk.	§813.123(1)(fm)
Neglect	<p>The failure of a caregiver, as evidenced by an act, omission, or course of conduct, to endeavor to secure or maintain adequate care, services, or supervision for an individual, including food, clothing, shelter, or physical or mental health care, and creating significant risk or danger to the individual's physical or mental health.</p> <p>"Neglect" does not include a decision that is made to not seek medical care for an individual, if that decision is consistent with the individual's previously executed declaration or do-not-resuscitate order under Chapter 154, a power of attorney for health care under Chapter 155, or as otherwise authorized by law.</p>	§§46.90(1)(f) & 55.01(4r)
Pet	See "Household Pet," page 70.	Household Pet found in §951.01(3)

Glossary Term	Definition	Where Found in statute or other Sources
Pro Se	A person represents him or herself during a legal action/proceeding without the assistance of an attorney.	Questions 89 & 90
Property	<p>“Property” means real or personal property</p> <p><u>Personal Property</u>: includes all goods, wares, merchandise, chattels, and effects, of any nature or description, having any real or marketable value, and not included in the term "real property," as defined in §70.04. Any moveable or intangible thing that is subject to ownership and not classified as real property</p> <p><u>Real Property</u>: includes not only the land itself but all buildings and improvements thereon, and all fixtures and rights and privileges appertaining thereto, except that for the purpose of time-share property, as defined in §707.02(32), real property does not include recurrent exclusive use and occupancy on a periodic basis or other rights, including, but not limited to, membership rights, vacation services and club memberships.</p>	§§70.02, 70.03, 70.04,
Self-neglect	Self-neglect means a significant danger to an individual's physical or mental health because the individual is responsible for his or her own care but fails to obtain adequate care, including food, shelter, clothing, or medical or dental care.	§§46.90(1)(g), 55.01(6)
Service Representative	An individual member of an organization or victim assistance program who provides counseling or support services to complainants or petitioners and charges no fee for the services provided.	§895.45(1)(c)
Spendthrift	Spendthrift means a person who, because of the use of alcohol or other drugs or because of gambling or other wasteful course of conduct, is unable to manage effectively his or her financial affairs or is likely to affect the health, life, or property of himself, herself, or others so as to endanger his or her support and the support of his or her dependents, if any, or expose the public to responsibility for his or her support.	§54.01(31)
Stalking	Engaging in a course of conduct – 2 or more acts carried out over time, however short or long, that	§940.32(1)(a)

Glossary Term	Definition	Where Found in statute or other Sources
Stalking (continued)	<p>show a continuity of purpose – including any of the following:</p> <ol style="list-style-type: none"> 1. Maintaining a visual or physical proximity to the victim. 2. Approaching or confronting the victim. <p>Definitions for stalking continued on next page.</p> <ol style="list-style-type: none"> 3. Appearing at the victim's workplace or contacting the victim's employer or coworkers. 4. Appearing at the victim's home or contacting the victim's neighbors. 5. Entering property owned, leased, or occupied by the victim. 6. Contacting the victim by telephone or causing the victim's telephone or any other person's telephone to ring repeatedly or continuously, regardless of whether a conversation ensues. 6m. Photographing, videotaping, audio taping, or, through any other electronic means, monitoring or recording the activities of the victim. This subdivision applies regardless of where the act occurs. 7. Sending material by any means to the victim or, for the purpose of obtaining information about, disseminating information about, or communicating with the victim, to a member of the victim's family or household or an employer, coworker, or friend of the victim. 8. Placing an object on or delivering an object to property owned, leased, or occupied by the victim. 9. Delivering an object to a member of the victim's family or household or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be delivered to the victim. 10. Causing a person to engage in any of the acts described in subsections 1 to 9. <p>Stalking consists of actions, not just words, that make up a course of conduct that the stalker knows or should know will cause fear in the victim and does cause the victim's actual distress or fear.</p>	<p>State v. Hemingway, 2012 WI App 133.</p>
UCCJEA (Uniform Child Custody Jurisdiction Enforcement Act) Affidavit	<p>An affidavit (a notarized statement of facts) which must be filed in a child abuse restraining order petition (temporary restraining order and/or injunction) against a parent, legal guardian of the child, or person who has court-ordered visitation with the child.</p> <p>See Form GF-150.</p>	<p>Form GF-150</p>

Glossary Term	Definition	Where Found in statute or other Sources
Unpublished Court Opinion	Pursuant to §809.23(1)(a) of appellate procedure, an unpublished opinion is of no precedential value and for this reason may not be cited in any court of the state as precedent or authority except to support a claim of res judicata [<i>claim preclusion</i>], collateral estoppel [<i>issue preclusion</i>], or law of the case. In addition to these purposes, an unpublished opinion issued on or after July 1, 2009, that is authored by a member of a three-judge panel or by a single judge under §752.31(2) may be cited for its persuasive value. A per curiam opinion, memorandum opinion, summary disposition order, or other order is not an authored opinion for purposes of this subsection. Because an unpublished opinion cited for its persuasive value is not precedent, it is not binding on any court of this state. A court need not distinguish or otherwise discuss an unpublished opinion and a party has no duty to research or cite it.	§809.23
VINE (Victim Information Notification Everyday)	VINE is a free, anonymous telephone and online service that provides the public with information and notifications. A person must register with VINE to receive notifications. VINE monitors the status of offenders in WI's county jails and provides access to offender custody status.	https://www.vinelink.com/vinelink/siteInfoAction.do?siteId=50100
VPO (VINE Protective Order)	VPO is a computer data base which automatically notifies a person who has registered with VPO when a restraining order [TRO, injunction, and/or when respondent surrenders firearms to local law enforcement] is served on the respondent. VPO provides toll-free, 24 hour access to information about the status of restraining orders. See Question #38 .	https://registervpo.com/RegisterVPO/maplnitAction.do